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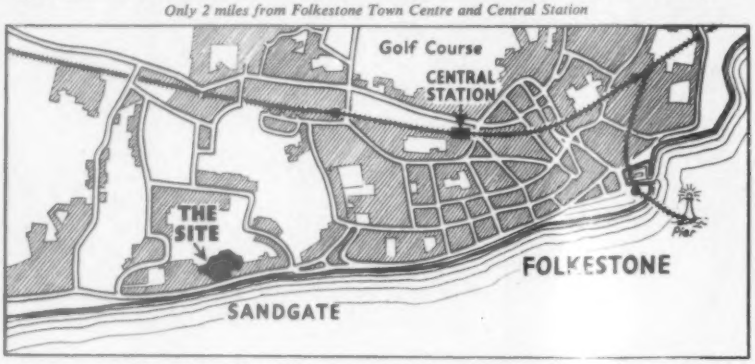

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CURRENT TOPICS

The New Session

WHOEVER may suffer from short-time working during the next few months, Members of Parliament should have no complaint. Her Majesty's Gracious Speech last Tuesday contained several proposals which will occupy a good deal of time but which also will involve the legal profession in some forgetting and re-learning. At last the investment powers of trustees are to be enlarged and it is no surprise to learn that the licensing laws are to be amended. It does not appear that parental contributions to university fees are to be completely abolished, but those of us with sons and daughters either at or approaching universities may expect some lightening of the load. We await with interest the details of the proposal to amend the law of weights and measures: one of the Sunday papers forecast that this might constitute some kind of Consumers' Charter. The Home Office plans for further reforms in our penal laws were expected and there is to be an increase in the number of judges. Unexpected is a Bill to amend the law relating to the respective responsibility for repairs of landlords and tenants on short-term tenancies. We are also promised, among several measures which are not of direct concern to lawyers, a Bill to amend the law of rating and valuation and to facilitate the 1963 revaluation.

The Ingleby Report

ALTHOUGH at first sight the recommendation of the Ingleby Committee on Children and Young Persons (Cmnd. 1191, H.M.S.O., 8s.) that the age of criminal responsibility should be raised from eight to twelve is contrary to the facts of the situation, it appears to us to be founded on good sense. Few solicitors have an extensive juvenile court practice, but those of us who have ventured from time to time within these closed doors have been impressed by the unimportance of the law and the vast importance of the probation officer and the social approach in general. We agree that it is sound that we should move away from the conception of criminal jurisdiction in dealing with young children, so long as the power to punish in appropriate cases is still retained. We also agree that all persons who are prima facie concerned should be before the court, although we stop short of the suggestion, which has been seriously made, that juvenile delinquency and misdeeds should become entirely an administrative matter and entrusted to the county or borough education committee. On the other hand, it is clear that every member of a juvenile court should have some special training, although we dissent from the implied assumption that the elderly are not able, for reasons

of age alone, to deal with juveniles. The proposal that parents should sometimes be required to pay for the results of misdeeds of their sons and daughters (which they have done for years past in any case) merely gives the stamp of legality to the proposition that the sins of the children shall be visited on the fathers. The report contains a substantial number of recommendations for the reform of our legal system and we shall devote more space to it in future issues.

Acknowledgment of Signature

ONE of the requirements of s. 9 of the Wills Act, 1837, is that the testator's signature should " be made or acknowledged by the testator in the presence of two or more witnesses present at the same time." In order to establish such an acknowledgment, it is not necessary to show that the witnesses knew that the document which had been signed by the person whose signature they were called upon to witness was a will (*In the Estate of Benjamin* (1934), 150 L.T. 417), but the court must be satisfied as to the existence of the signature at the time of the execution of the will (*Hott* v. *Genge* (1842), 3 Curt. 160 : cf. *Wright* v. *Sanderson* (1884), 9 P.D. 149) and the witnesses must either have seen or had the opportunity of seeing it (*Blake* v. *Knight* (1843), 3 Curt. 547). The testator may acknowledge his signature by word of mouth (*Gaze* v. *Gaze* (1843), 3 Curt. 451), by gestures (*In the Goods of Davies* (1850), 2 Rob. 337) or even by demeanour (*Inglesant* v. *Inglesant* (1874), L.R. 3 P. & D. 172). The court was confronted with a problem concerning the acknowledgment of a testatrix's signature in *In the Estate of Hadler ; Goodall* v. *Hadler* (1960), *The Times*, 20th October, where the plaintiff, a beneficiary under the will, sought a declaration that the will had been duly executed. It seems that the testatrix did not sign the will in the presence of the attesting witnesses as her signature already appeared on the will when the document was shown to them. However, there was evidence that the testatrix was fully aware of what was happening whilst the attesting witnesses, of whom there were three, were appending their respective signatures and it was proved that she indicated her approval by nodding her head. MARSHALL, J., held that the testatrix had impliedly acknowledged her signature to the will by the indication she had given and, for this reason, that the will had been duly executed in accordance with s. 9 of the Act of 1837.

Irrigation of Land

SHOULD farmers be allowed to draw water from rivers which pass through their land to irrigate their fields if this practice leads to a serious depletion of the quantity of water in the river ? Concerned at the growth of spray irrigation, the Rivers and Streams Committee of the Surrey County Council has recently given a negative answer to this question and recommended that legislation should be introduced to prohibit the taking of water except by licence. However, at common law the right to take water for the purposes of irrigation is already limited. In *Attwood* v. *Clay Main Collieries* [1926] Ch. 444, Lawrence, J., said that a riparian owner may " take and use the water for extraordinary purposes, if such user be reasonable and be connected with the riparian tenement, provided that he restores the water so taken and used substantially undiminished in volume and unaltered in character." It seems that the irrigation of land is classified as an " extraordinary purpose " (see, e.g., Cheshire's Modern Real Property, 8th ed., p. 119, and The Law of Real Property, by Megarry and Wade, 2nd ed., p. 74), but in *Embrey* v. *Owen* (1851), 6 Ex. 353, it was held that as the irrigation of certain of the defendant's meadows took place not continuously but only at intermediate periods when the stream was full and the diminution of water was not perceptible to the eye or sufficient to damage the working of the plaintiffs' water-grist mill, the use of the water by the defendant for this purpose was reasonable and not prohibited by law. Nevertheless, in the course of his judgment, Parke, B., affirmed that " it could not be permitted that the owner of a tract of many thousand acres of porous soil abutting on one part of the stream, could be permitted to irrigate them continually by canals and drains, and so cause a serious diminution of the quantity of water." It would seem, therefore, that the common law has its answer to the situation envisaged by the Rivers and Streams Committee, but it appears that they would like Parliament to strengthen their hand in dealing with it. We would be interested to hear if other local authorities have felt a similar need.

Fire Alarms in Factories

SECTION 13 (1) (*c*) of the Factories Act, 1959, enacts that for s. 36 (7) of the Factories Act, 1937, there shall be substituted : " In every building which is, forms part of or comprises a factory to which section thirty-four of this Act applies, effective means, capable of being operated without exposing any person to undue risk, shall be provided and maintained for giving warning in case of fire, which shall be clearly audible throughout the building or, where the factory is part only of the building, in every part of the building which is used for the purposes of the factory." The original s. 36 (7) of the 1937 Act requires (until 1st December, 1960, when s. 13 of the 1959 Act is to come into operation) that " effective provision shall be made for giving warning in case of fire, which shall be clearly audible throughout the building," and it has been suggested that s. 13 of the 1959 Act weakens the earlier provision because it requires that where a factory is part only of the building, the fire warning shall be clearly audible " in every part of the building which is used for the purposes of the factory," and not " throughout the building." However, in an article in *The Guardian*, 28th September, entitled " Fire Provisions of the Factories Act, 1959," Mr. T. W. MCCULLOUGH, the Chief Inspector of Factories, said that this fear arising from " the rather complicated legal position " is without foundation. He pointed out that para. 6 of Sched. I to the 1959 Act provides that in relation to a building comprising a part let off as a separate factory but not a part of a tenement factory, s. 36 (7) of the 1937 Act " shall have effect as if it required the warning referred to therein to be a warning in case of fire occurring anywhere in the building and to be audible in every part of the building which is used for the purposes of that or any other factory." But what is the position where the part let off *is* a part of a tenement factory or where part of the building is used for purposes other than the purposes of that or any other factory ? It seems to us that where there is a factory in part of a building and, say, offices unconnected with a factory in another part of the same building, there will be no need for the factory's fire alarm to be audible in the offices. If this is the case, it appears, theoretically at least, that the criticism of the new s. 36 (7) is not entirely unjustified.

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A FLAW IN THE DEVICE

THE principal object of the 1925 property legislation was to simplify conveyancing. As an element in achieving this object, the trust for sale was used to solve the problem of co-ownership. There was, of course, no problem where the legal estate was vested in joint tenants; by virtue of the *jus accrescendi*, the survivor took all and the number of tenants decreased. However, where there was a tenancy in common of the legal estate, on the death of each tenant his undivided share devolved as part of his estate and the number of tenants increased and as a result title became difficult to make. This problem was solved by the Law of Property Act, 1925, providing first that "a legal estate is not capable of subsisting or of being created in an undivided share of land" (s. 1 (6)), and second, that land conveyed to two or more persons shall be held on certain implied trusts for sale (ss. 34 to 36), which trusts can be prolonged artificially in order to keep equities off the title (s. 23).

The three major results are: (*a*) the legal estate can only be held by joint tenants; (*b*) with one exception (see s. 19 (2) of the Settled Land Act, 1925) limitations on either a joint tenancy or a tenancy in common create a trust for sale; and (*c*) both joint tenancies and tenancies in common continue to be possible in the proceeds of sale.

Two notions

Therefore, today, there are two distinct types of trusts for sale: first, the express trust for sale, and second, the statutory trust for sale arising from co-ownership. This has introduced two notions. On the one hand, an express trust for sale means exactly what it says: the purpose is to sell. On the other hand, when there is a statutory trust for sale implied, for example when a married couple purchase a house together, the last thing that is intended is that the land should be sold. In other words, the statutory trust for sale should be regarded simply as a technical device for holding land.

Unfortunately, the practical reality of the latter notion has not consistently received the recognition it deserves from the courts. Two recent cases—*Re Steed's Will Trusts* [1960] 2 W.L.R. 474; p. 207, *ante* (C.A.), and *Jones* v. *Challenger* [1960] 2 W.L.R. 695; p. 328, *ante* (C.A.)—might well have extended such recognition, but it is very doubtful whether they did.

Before these two cases are examined, it is proposed to mention such earlier cases as have related to the notion of a land-holding device, either supporting or rejecting the notion, whether or not consciously.

Who gets possession?

In the sort of case where the statutory trust for sale arises, say a purchase by a married couple as joint tenants in law and equity, it is clear that the parties will be entitled to possession of the land, but as trustees not as beneficiaries. Thus if one party were to appropriate the whole of the rents and profits to himself, even for many years, he could not acquire a title against the other party because the land would be in his possession as a trustee and time would not run in his favour: *Re Landi; Giorgi* v. *Novani* [1939] Ch. 828; *Re Milking Pail Farm Trust; Tucker* v. *Robinson* [1940] Ch. 996.

However, these cases, as authority for the proposition that a trustee gets possession rather than a beneficiary, were disregarded in *Bull* v. *Bull* [1955] 1 Q.B. 234. In this case a son and his mother had purchased a house, providing the purchase money in unequal shares, but the conveyance had been made to the son alone. They lived together, happily one supposes, until the son married and wanted the mother out. The son's action for possession, alleging that his mother was a licensee whose licence had been revoked, failed. The Court of Appeal held that the action was brought by a trustee-beneficiary against another beneficiary and could not succeed.

This decision is interesting in two respects. First, the implied statutory trust for sale apparently arose although the conveyance of the legal estate was not taken in joint names. It is thought that such circumstances were not envisaged by the property legislation of 1925. Second, it is suggested that this decision is clearly in support of the notion of the statutory trust for sale as a land-holding device.

Further support for the notion might be found in s. 29 of the Law of Property Act, 1925, by virtue of which trustees for sale may revocably delegate by signed writing certain powers of management to a beneficiary. The idea behind this section is that trustees who do not happen to have a close interest in the land may allow those who have to manage it. However, the section is oddly worded: it permits delegation to a beneficiary in title "during his life or less," which prima facie does not include a beneficiary with a larger interest as would be the case under a statutory trust for sale.

Consents

Again, the notion of a land-holding device is supported by s. 26 (3) of the Law of Property Act, 1925, as substituted by the Law of Property (Amendment) Act, 1926, which provides, in effect, that where there is a statutory trust for sale the beneficiaries are to be consulted before the exercise of any of the trustees' powers. There is no similar provision where there is an express trust for sale. However, it appears that this provision is really of little effect: a purchaser is not concerned with it and there is no case where sale of the land has been postponed at the instance of a beneficiary.

Apart altogether from the artificial prolongation of trusts for sale for the protection of purchasers (s. 23 of the Law of Property Act, 1925), it is provided that "a power to postpone sale shall, in the case of every trust for sale of land, be implied unless a contrary intention appears": s. 25 (1) of the Law of Property Act, 1925. In other words, the trustees have a power to hold instead of selling the land. A contrary intention may appear in an express trust for sale—see *Re Rooke; Rooke* v. *Rooke* [1953] Ch. 716—but is unlikely to appear where there is a statutory trust for sale.

Moving on from this power to postpone to the other extreme, there is s. 30 of the Law of Property Act, 1925, which enables any person interested to apply to the court for such an order as the court thinks fit whenever, almost, the trustees will not do as it is thought they ought, in particular if they "refuse to sell." It has been held that where a husband and wife held a house, being tenants in common in equity, the trustee in bankruptcy of the husband was not a "person interested" within s. 30 and could not apply for an order directing the sale: *Stevens* v. *Hutchinson* [1953] Ch. 299.

To sell or not to sell?

If an application is made to the court under s. 30 of the Law of Property Act, 1925, as will appear from the cases about

to be mentioned, the court is inclined to favour the order for sale of the land unless some reason—such as fraud—justifies an order for retention. On the cases a stronger statement than this cannot be made. However, it is submitted that the court should in its decision, the parties not being unanimous, pay attention to the distinction between the two types of trust for sale, namely, express and statutory, and to the notion of a mere holding device inherent in the latter type. Only by so doing can all the interests involved properly be considered and justice done within the spirit of s. 26 (3) of the Law of Property Act, 1925 (as amended), which requires consultation with the beneficiaries.

How far the courts have in fact paid attention to the above distinction is far from clear. No consistent principle has been followed in the decisions and only *ex post facto* rationalisation can extract one.

Inconsistent cases

The simplified facts in *Re Mayo's Will Trusts* [1943] Ch. 302—the usual case to start with—were that *A*, *B* and *C* were trustees holding on a statutory trust for sale for the benefit of *C* and *D* in undivided shares; *C* wished to sell, *A* and *B* did not. On an application under s. 30, Simonds, J., ordered a sale, and his decision was based on the well-known rule that in a trust for sale there is a duty to sell and only a power to postpone, so that in order to postpone the trustees must be unanimous, which they were not. Section 26 (3) of the Law of Property Act, 1925 (as amended), whereby in particular effect should be given if possible to the wishes of the majority in value of the beneficiaries, was not mentioned, and *D's* interest was apparently not consulted. Further comment is surely unnecessary.

As a contrast, a decision thought to be on the right lines was made by the Court of Appeal in *Re Buchanan-Wollaston's Conveyance; Curtis* v. *Buchanan-Wollaston* [1939] Ch. 738, where four persons had purchased land to preserve the amenities and on the express condition that they all were to agree on sale. One of the four wanted to sell, but the Court of Appeal refused to order sale in breach of contractual obligations. Greene, M.R., said (at p. 747) that however a trust for sale arose a court of equity "must look into all the circumstances of the case and consider whether or not, at the particular moment and in the particular circumstances when the application is made to it, it is right and proper that such an order shall be made." This, therefore, is a decision in support of the notion that the statutory trust for sale is merely a method of land-holding. Reference also may be made to *Re Hyde's Conveyance* (1952), 102 L.J. 58, where an application for an order for sale was refused because sharp, though not fraudulent, practices were involved.

Despite the plain sense of these latter two decisions, it is that in *Re Mayo's Will Trusts* which is generally regarded by the books as the better decision. However, there are the two recent decisions which throw some light on the problem.

Two recent decisions

First, as an incidental question in *Re Steed's Will Trusts*, *supra* (mainly concerned with the Variation of Trusts Act, 1958), Lord Evershed, M.R. (at p. 480), also considered whether the trustees should be restrained from selling a farm which was part of the trust property, though the application was not made under s. 30 of the Law of Property Act, 1925. He accepted the proposition, made by counsel, that "in the absence . . . of *mala fides* or some other special circumstances which would show at least grave misdirection of themselves by the trustees, the court will not interfere, particularly in a case where there is an express trust for sale, and where the trusts, as declared, clearly impose, and are intended to impose, a duty in the discharge of which . . . the trustees have reached their conclusion." Whilst this does not go so far as to recognise the notion of the land-holding device of the implied statutory trust for sale, it does at least recognise both that there is a distinction between the express trust for sale and the statutory trust for sale and that the duty to sell is stronger in the former. It is unfortunate that Lord Evershed added (at p. 480) that the court should not overrule the trustees out of sympathy for the plaintiff. With respect, it is submitted that this latter comment is out of sympathy with s. 26 (3) of the Law of Property Act, 1925, mentioned above.

The second case, *Jones* v. *Challenger*, *supra*, is perhaps even stronger support for the notion of a land-holding device. There a married couple had purchased a house as a matrimonial home. They had later been divorced and the husband had continued to live in the house. The wife applied under s. 30 of the Law of Property Act, 1925, for an order for sale. The majority of the Court of Appeal (Devlin and Ormerod, L.JJ., Donovan, J., dissenting) held that an order for sale must be made. In the course of his judgment, with which Ormerod, L.J., concurred, Devlin, L.J., said (at p. 698) that the decision in *Re Mayo's Will Trusts* applied "the simple and fundamental principle that in a trust for sale there is a duty to sell and a power to postpone; and, accordingly, one trustee may call upon the others to perform the duty, but all must be agreed if they are to exercise the power. But this simple principle cannot prevail where the trust itself or the circumstances in which it was made show that there was a secondary or collateral object besides that of sale." The submission of this article is that the land-holding device should be regarded as such a "secondary or collateral object besides that of sale."

Devlin, L.J., continued (at p. 700), after referring to the other cases mentioned above: "There is, as I have said, something akin to *mala fides* if one trustee tries to defeat a collateral object in the trust by arbitrarily insisting on a duty of sale. He should have good grounds for doing so and, therefore, the court will inquire whether, in all the circumstances, it is right and proper to order the sale . . . The true question is whether it is inequitable for the wife, once the matrimonial home has gone, to want to realise her investment." On the facts, the land-holding device no longer coincided with reality and the order for sale was made.

Conclusion

These two decisions, particularly the latter, have without doubt undermined the decision in *Re Mayo's Will Trusts*, but whether they have gone so far as to shake it from its pedestal is another matter. The trouble is that in the circumstances envisaged—say purchase of a house by a married couple where the statutory trust for sale is implied—the so-called fundamental principle in favour of sale—from which even Devlin, L.J., started—monstrously conflicts with the parties' real intentions, which are to hold and live on the land. That principle also conflicts with the notion which, it is submitted, is inherent in ss. 34 to 36 of the Law of Property Act, 1925, that the implied statutory trust for sale is merely a conveyancing device, a method of land-holding. Devlin, L.J., apparently recognised this latter conflict, and it is greatly to be regretted that he did not formulate the notion in his judgment and so kill *Re Mayo's Will Trusts* once and for all.

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However, since the courts have shown themselves reluctant, as always, to recognise realities, a practical solution to the resulting uncertainty must be found. This is not too difficult. If the duty to sell were by the terms of the conveyance to the co-owners to be contradicted, there would not be an immediate binding trust for sale within the definition in s. 205 (1) (xxix) of the Law of Property Act, 1925. In fact, there might well be settled land within s. 1 of the Settled Land Act, 1925—almost a fate worse than death. So why not have the co-owners enter into a simple collateral agreement *inter se* that the land should not be sold without the consent of all, as in *Re Buchanan-Wollaston, supra?* In this way, the parties' intentions, if such they are, would be put in a form which is enforceable and not entirely dependent upon the varying discretion of the courts.

J. T. FARRAND.

EDUCATION SCHEME FOR SOLICITORS—II

Turning to the question of the provision of vocational training, the scheme indicates that The Law Society has decided to leave the main burden of training to the university law departments and private law tutors. It is to close its provincial law schools and make no provision for training for Part II. Many will be sorry to see the provincial law schools go. They had great virtues. I personally enjoyed some of the finest teaching of my entire student days in the law school I happened to attend. The law school brought together clerks from a wide area and gave them opportunities for discussion and social intercourse often denied to them by their local law societies; and it attracted the good will of the best local authorities, who made grants to articled clerks to cover their law school fees and even travelling expenses. For the really poor student, the local law school provided an opportunity of skilled teaching which he otherwise could not afford. The Council is doing less than justice to the local law schools, therefore, when it describes them as "unsuccessful and wasteful"; what it means is that it finds £9,000 a year (the grants it has been making to local law schools) more than it cares to afford on provincial legal education. In any case, under the new scheme, the local law schools are doomed, since encouraging your erstwhile five-year man to take a law degree, and discouraging the non-law graduate from entering articles at all, means that there will be no one to attend local law school. One may speculate whether even Lancaster Gate may suffer a certain amount of redundancy.

Although the Council has decided to discontinue the most useful forms of vocational training in which it has hitherto engaged, it appears to hold the view that the best vocational training still resides in the system of examinations and articles; and with regard to articles of clerkship there is a welcome change of emphasis inasmuch as the articled clerk of the future will have some legal training before entering the solicitor's office. Not only will he be of more use to his principal, but he will be able more easily to follow the practice, the principles of which he understands. This, at least, is a step in the right direction.

However, combined with the likelihood that articled clerks (if the profession takes notice of the exhortations to which we have lately been treated) will not have paid a premium for articles, and will be paid a wage of some sort during articles, the idea of learned articled clerks involves a radical change in the concept of the vocational function of articles. A qualified, paid articled clerk will be expected to earn his keep (the firms who advertise for articled clerks hardly intend less); to keep his principal's hours and convenience; not to make many mistakes. He is an employee. Contrast this with your former unqualified, paying articled clerk who might well be permitted to make mistakes, ask his principal questions and enjoy a certain social status.

Such a change in the nature of articles as a part of our vocational training seems to be inevitable; but considering its implications it may be thought that the Council could have gone one step further and allowed intending solicitors to pass their Part II examination at any time, and not only after completing two-and-a-half years of articles.

Council's responsibility

Whatever effect the Council's scheme may have on recruitment, on professional standards, or on vocational training, perhaps the most interesting feature of the scheme is that from it may be deduced the Council's view of responsibility for these things. Responsibility for examinations the Council cannot altogether renounce; it can, and it has, apparently, compromised its past high standards. Responsibility for recruitment and for providing vocational training, however, the Council has renounced. That paternal interest which The Law Society took in providing provincial and final vocational training is an interest which is to cease. It was, in the past, a matter of grace, not a matter of responsibility. All responsibility for these matters, apart from a shadowy responsibility for teaching Part I, an examination which few will attempt, is to be thrown upon the clerk, his parents or his principal, upon university law departments and private law tutors.

No new scheme for legal education can be allowed to pass without some consideration of social responsibility for vocational training; and the Council's view that the primary responsibility for vocational training should be a private affair is so far removed from current educational trends that it must be called into question. That a healthy legal profession is essential to the well-being of a commercial society is a truism. The officers of the legal system are essential social engineers. To-day, the scientist, teacher, doctor, civil servant, technologist, even the musician, all are trained to their vocation within an educational scheme substantially supported and paid for by the State. There is no reason why professional legal education should not also be provided at State expense. Private resources are simply incapable of meeting the burden; parents cannot afford premiums, the profession cannot afford law schools; that is why they are being left behind. Unless professional legal education can be made respectable enough to win financial support from the Government, it will inevitably decline in the direction, now pointed by the new scheme, of easier examinations and narrow-sighted recruitment.

It is no use pretending that university law departments are the answer: they serve a valuable but quite different purpose of legal learning. Again, it is no use leaving it to private law tutors, good as they are (and how much the profession owes them and will need them); in the nature

of things one could not expect Government recognition for them now.

Proposed scheme perverse

Surely, then, The Law Society's "go it alone" scheme is perverse. Now is the time, when there is more law and more legal specialisation, to set up, not to break down, legal educational establishments. Now is the time, in an affluent society, to found legal vocational training establishments which will attract the financial support of the Ministry of Education. If three or four large residential colleges were set up, in different parts of the country, having as their object the provision of practical and theoretical training, with particular attention to debates, moots, practical conveyancing, and tutorial teaching, and if such colleges employed the best teaching staffs and latest methods, we all know that professional standards and the status of the solicitor would rise high above their present level and that society would benefit inestimably. Such colleges should be set up, and by none other than The Law Society, acting perhaps in conjunction with the Bar Council (which can teach it so much); such colleges should win the financial support of the Ministry of Education as if they were university or technical colleges; and all students attending should be accorded grants on the same basis as university or technical students.

If this were done, the recruitment problem, the standards and examinations problem, and the financial problem would all be solved in a manner acceptable to the prevailing modes of social progress; and the future of the profession in these respects would be put on a sound and encouraging footing. I have not seen any mention of conversations between The Law Society and the Ministry of Education on the subject of grants to the Society or to articled clerks. It would be desirable for conversations to take place—all articled clerks reading for Part I under the new scheme, if it goes through, ought to be entitled to Ministry grants. It might even be desirable for the profession as a whole to take the entire question of State aid for vocational training some distance with the Government—the profession is not without its influence, and the issues are so serious and compelling that to capitulate to circumstance, as the proposed scheme of The Law Society does, is too great a failure to be left.

I sincerely hope that this scheme will never be implemented in its proposed form; and that The Law Society and the legal profession as a whole will try much harder to secure better provision for the future.

WILLIAM A. LEE.

(*Concluded*)

LETTER TO AN AMERICAN HOST

Upper Maypole.
Tuesday.

Dear Tom,

This is just a line to tell you and Mrs. S. that I got back safely and to thank you both for the wonderful time you gave me in New York.

How is young Broderick getting on? A sturdy lad you have there, and so keen on baseball! They took the stitches out when I got home; the scar does not show very much and, of course, my hair is beginning to grow again. I have a recollection now that I may have mislaid the bat down the lift (sorry) elevator shaft.

I owe Mrs. S. an apology. You remember our trip to the Bowery? Well, I found out about that word that made me blush. We call then "tramps" over here. She must have thought I needed spectacles when I told her that I had not noticed any.

If that artist fellow from Greenwich Village calls again, tell him that I have approached our Village Hall committee with his scheme to do the murals free in return for board and lodging. I fear we may run into some opposition engineered by the squire's lady. Some years ago she went on a tour to Rome to acquire some culture and somebody told her how long it took Michelangelo to do the Sistine Chapel. That bit he told me to put in about his being of the well-known Beatnik school seems to have done more harm than good. What possible connection can there be between the chap's school and the squire having teen-age daughters? I wish I knew more about art!

That contingent fee business you showed me how to work has run me into a spot of bother with our Law Society. I told them that, according to enlightened opinion held in certain parts of the modern world, being old fashioned would get them nowhere. They told me to carry on and see where it would get me. I suppose I must accept their ruling; that is, if I ever want to go on any more conferences.

How is that charming secretary of yours, Miss Sza-Sza? I hope she keeps on with that course of typing she was going to take in the mornings. She certainly knows how to fix those drinks though; which reminds me that I had them all in stitches in our local when I asked the landlord for some ice. He said it was a good job I had not gone to France, Europe, or I would be asking for "absence"—it sounded like.

Regards,
"LOMAX."

"THE SOLICITORS' JOURNAL," 3rd NOVEMBER, 1860

ON the 3rd November, 1860, THE SOLICITORS' JOURNAL reported: "Michaelmas Term opened yesterday. The arrears of business in the superior courts are not very considerable. The whole arrears of the common law courts number only 129 of which 70 are in the Queen's Bench, 32 in the Common Pleas and 27 in the Exchequer. In the Queen's Bench there is one rule in the new trial paper for judgment and 29 for argument; in the special paper there is one for judgment and 32 for argument, including appeals from county courts; also 7 enlarged rules. In the Common Pleas there are 32 rules, including demurrers; 8 rules in the revenue paper; two enlarged rules and three matters standing for judgment of the court. In the Court of Exchequer, of errors and appeals there is one for judgment and seven for argument; one rule in the peremptory paper for a writ of prohibition issued in June, and in the special paper three for judgment and six for argument, while in the new trial paper there are five rules for judgment and four for argument. The arrears of the Court of Chancery are even less than those of the courts of law. Including the arrears, the total number of cases now set down for hearing or rehearing on appeal is 402."

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LEGAL EFFECT OF MANUFACTURERS' GUARANTEES

TO-DAY it is becoming the common practice for a manufacturer to insert a guarantee with the finished product before it is presented to the public. So common has this become that prospective purchasers often seek to purchase an article that carries such a guarantee, in contrast to one which does not. These guarantees take different forms, and their legal effect, if any, differs accordingly.

Guarantees not requiring purchaser's signature

Guarantees can be sub-divided into two types depending on whether or not they require signature by the purchaser. If we examine those which do not require signature, it is difficult to see what legal effect as between manufacturer and purchaser these guarantees have. The original contract is between the retailer and the purchaser, and to this contract the manufacturer is a stranger. Even if the retailer draws the purchaser's attention to the guarantee and attempts to incorporate its terms into the contract, it seems doubtful whether the guarantee can be enforced against the manufacturer, due to the existence of the rule that a contract cannot impose a liability upon or confer a benefit upon a third party, which has its origin in *Tweddle* v. *Atkinson* (1861), 1 B. & S. 393, and which was re-affirmed by the House of Lords in *Dunlop Pneumatic Tyre Co., Ltd.* v. *Selfridge & Co., Ltd.* [1915] A.C. 847. It could be contended that if the guarantee confers benefits on the manufacturer, then the retailer must be treated as a trustee of these benefits for the manufacturer, following the reasoning in cases such as *Les Affréteurs Réunis Société Anonyme* v. *Walford* (*London*), *Ltd.* [1919] A.C. 801. This is, however, an unsatisfactory solution even if accepted by the courts, and could not be used to bestow benefits on the purchaser. In order that a guarantee of this type can be enforced, therefore, it seems necessary to regard it as a secondary contract made directly between the manufacturer and the purchaser. If the guarantee merely consists of unilateral promises by the manufacturer, it is difficult to see what consideration has been furnished by the purchaser. Again, a further difficulty arises when one has to consider whether there was an intention to create legal relationships, and the moment when the contract was concluded, i.e., in the language of offer and acceptance, when the offer was accepted. It is possible to argue that if the purchaser knows of the guarantee before he completes his purchase, then the mere fact that he does purchase is sufficient consideration to bind the manufacturer and that the contract is completed at the same time as the primary contract of sale is completed. This does not dispose of the third objection to the existence of such a contract, namely the lack of intention to create a legal relationship, and is an extremely artificial solution.

A further difficulty that arises in connection with some guarantees is that the purchaser has no knowledge of them until he examines his purchase after the contract with the retailer is completed. In *Olley* v. *Marlborough Court, Ltd.* [1949] 1 K.B. 532, it was again affirmed that terms cannot be incorporated into a contract after it has been completed. In these cases, therefore, this provides an additional reason why these guarantees are of no legal effect unless there is a supplementary contract between the manufacturer and the purchaser.

Guarantees completed by purchaser's signature

These difficulties do not exist when the second type of guarantee is examined, and it is this second type of guarantee which seems to be becoming more common in the modern commercial world. This is the form of guarantee which is received by the purchaser and is completed when he signs it and when it is forwarded to the manufacturer. Again, these guarantees fall into two types, the unilateral and the bilateral. If we take the more common bilateral type first, by which the manufacturer appears to bestow certain rights on the purchaser, but in return has the purchaser to relieve him of some of his more onerous common-law liabilities, there seems little doubt that the terms of these guarantees form a separate contract between the manufacturer and the purchaser. It must be regarded as entirely separate from the original contract between retailer and purchaser, and must be looked upon as an offer made by the manufacturer and accepted by the purchaser when he signs and forwards the "Guarantee" to the manufacturer. If he does not do this, then there is no binding contract and the guarantee is non-effective. Assuming that the purchaser does not accept the guarantee, then he is thrown back upon his common-law rights if any dispute arises. Also it must be remembered that the manufacturer would only be liable in so far as liability could be attributed to him under the common law. If, however, a contract has been made between the manufacturer and the purchaser, then this would provide the answer to any future dispute, with the common law merely filling in the blanks left by the contract. Thus, before making one of these contracts by signing such a guarantee, it is essential that the terms should be thoroughly read and understood, otherwise the purchaser may find himself stripped of his common-law rights in return for something that is quite valueless. Indeed, in many of these guarantees, the exclusion clauses confer far more benefit on the manufacturers than the other clauses confer on the purchaser, who would often be in a far better position relying merely on his common-law rights. In this respect it is interesting to examine the case of *White* v. *John Warwick & Co., Ltd.* [1953] 1 W.L.R. 1285, where the interpretation of such an exclusion clause was before the court. In this case it was sought to exclude liability for personal injuries, and the court held that liability under the contract was excluded. Fortunately for the plaintiff the court held on the wording of the clause that it did not exclude tortious liability for negligence causing personal injuries, and the case was sent back for re-trial on the question of negligence. This case would seem to suggest that if the wording had been different, then the liability for negligence might have been excluded, and this view can be supported by the long line of cases dealing with the exclusion of conditions and warranties culminating in *L'Estrange* v. *Graucob, Ltd.* [1934] 2 K.B. 394, where liability under these heads was completely excluded. Provided the magic formula can be found, then there seems no reason why liability in cases such as *White* v. *John Warwick & Co., Ltd.*, cannot be excluded.

Signed unilateral guarantee

We now come to the less common signed unilateral guarantee where the manufacturer does seem to give something for nothing, provided that the purchaser signs the guarantee

form. For the same reasons as given earlier, this guarantee does not form part of the original contract, to which the manufacturer is a stranger. Therefore, we have to find a contract made direct between the manufacturer and the purchaser. In this case there seems to be no consideration moving from the purchaser, unless the mere act of filling in the guarantee form and posting it can be held to be consideration, though it is difficult to see what benefit this gives to the manufacturer. It may well be that if the courts ever have to express an opinion on the matter, they will hold this to be sufficient to enable the purchaser to benefit from the guarantee in view of the highly artificial air which is already worn by the doctrine of consideration. But it appears that the only type of guarantee given by a manufacturer to a purchaser is that given when the purchaser signs a bilateral guarantee, and in view of the fact that these guarantees often benefit the manufacturers to a greater extent than the purchaser, the word " guarantee " is perhaps in this context a slight misnomer. It should be observed that in some cases manufacturers put so much store on such " guarantees " that they instruct the retailer not to sell the article concerned until he has received the guarantee form signed by the purchaser.

Retailer's guarantee

In all this discussion, it must be remembered that we have been considering guarantees given by the manufacturer to the purchaser. We have not considered the question of any guarantee given by the retailer to the purchaser, as this would merely form part of the contract between them. Again, the fact that a guarantee given by a retailer is in the same terms as one given to him by the manufacturer is immaterial, as there would be nothing in such circumstances to bind the manufacturer to the purchaser.

Is a " bearer guarantee " possible ?

It may be considered, however, whether it is possible for the manufacturer to affix to his products a form of guarantee that will pass a benefit, and if it is so desired, a burden, to anyone into whose hands the goods may come, be he retailer, purchaser, or anyone else. In the light of the views already expressed on the conferring of benefits and liabilities on strangers to the original contract, it does not seem possible for such a view to be upheld, and this is supported by the refusal of the courts in such cases as *Taddy & Co.* v. *Sterious & Co.* [1904] 1 Ch. 354, and *Monkland* v. *Jack Barclay, Ltd.* [1951] 2 K.B. 252, to allow restrictive covenants to be imposed on the sale of goods. This does not mean that the guarantee cannot form part of each individual contract in a chain of contracts, but in each case only the parties to each individual contract would be bound by the guarantee. From this it can be seen that guarantees supposedly given by a manufacturer are in the main legally ineffective. This is not to say that they would not be honoured by the individual manufacturer concerned, but that they would not be upheld against him by a court. In these cases where the guarantee is binding, the purchaser may wish that this were not the case, and the mere heading of a document with the word " guarantee " does not usually mean that the manufacturer is giving the purchaser something, or, even if he is doing so, then he is obtaining adequate consideration.

KENNETH REES.

County Court Letter

THE COUNTY COURT (AMENDMENT) LETTER, 1960

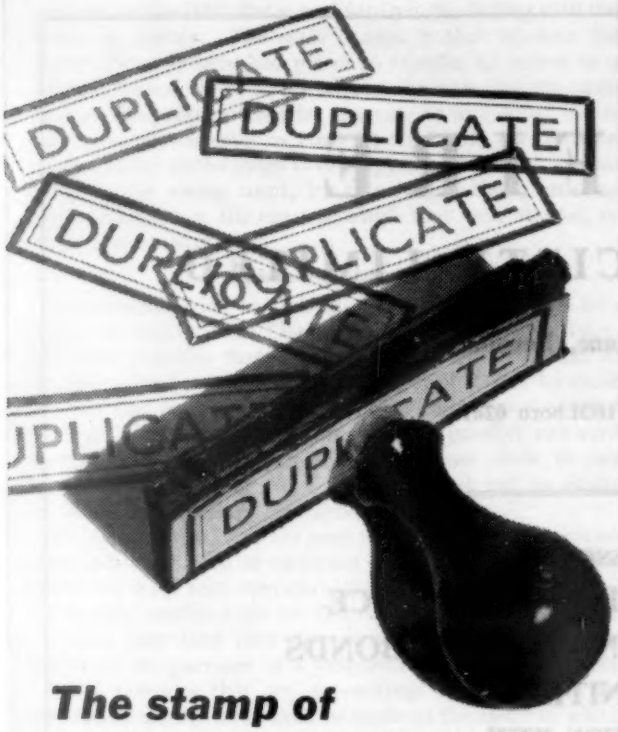
ANYONE who has a moral obligation to contribute articles at regular intervals and also has sufficient affection for his collector of taxes to try to fulfil it, might be expected to be only too pleased when something happens to, so to speak, present him with the material for a ready-made article on a plate. Should this metaphor appear to be rather mixed, it is no more so than the feelings of the writer, after a look at the County Court (Amendment) Rules, 1960 (S.I. 1960 No. 1275). On them, obviously, an article can, should and will be written, if only to point out the amendments which now ought to be made to County Court Letters of yesteryear. It is in fact quite remarkable how points touched on in previous letters have been taken up in the new Rules—one might have almost felt inclined to say " flattering " rather than " remarkable " had one not realised that the Rules Committee probably reads the Law Reports, too.

The main object of the new rules is to make amendments to the County Court Rules consequential on the coming into force of the Mental Health Act, 1959. There is fortunately no object in dealing with this specialised aspect in detail—suffice it to say that in general the " person of unsound mind " and his " committee " disappear and infants and mental patients are now lumped together as " persons under a disability," which certainly seems a neater phrase. Apart from this, the new rules contain a number of amendments to the old ones as they affect everyone, some of them of considerable practical importance.

Time and money

The time for delivery of further and better particulars of claim or defence, for instance, is increased to five days (1960 Rules, rr. 5 and 7; Ord. 7, r. 9 (1), and Ord. 9, r. 4 (6)). Then there is a highly important change connected with costs when there has been a payment into court. Under Ord. 11, r. 1, it will be remembered, we discovered in " Pay and Look Happy " (p. 517, *ante*) that if a defendant paid in so much of a claim as he admitted with appropriate costs and it was accepted, he would not normally be liable for any further costs. If he paid in with a denial of liability, however, he was not " admitting " any part of the claim and might therefore be liable for further costs, even if the sum paid in were accepted. Now, however, Ord. 11, r. 1, which deals with this subject, has gone, and substantially reappears as r. 7, but with the reference to admission gone. It follows that if your payment in is accepted, you will have to pay no more costs (unless the court otherwise orders), even if you deny liability. However, if the plaintiff is a person under disability, this rule does not apply (new r. 7 (5)) so that apparently an infant or mental patient can get extra costs even now.

A new r. 12 to Ord. 14, which deals with interrogatories and discovery, makes the rule apply to all persons under disability. The effect of this is to remove the curious exemption that the guardian of a person of unsound mind used to enjoy from having to answer interrogatories.



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Rule 11 of the 1960 Rules modifies Ord. 16, dealing with the transfer of actions. The main change is that whereas the registrar formerly only had power to transfer an action to a defendant's local court at his request, he now has the same power as the judge to transfer the case to any court where it can more conveniently or fairly be tried. He also is given the same power as the judge to deal appropriately with actions started in the wrong court, by transferring them, ordering them to continue in the court in which they were started, or striking them out (r. 4).

A problem solved

A new modification to Ord. 25, r. 3, which first came into being as a result of the County Court (Amendment) Rules, 1959, now provides that a registrar can stay a warrant of execution issued out of another court until it can be dealt with by the judge. The diligent or retentive-memoried reader will remember that comment on the possibly awkward effect of this rule as originally worded was made in our County Court Letter at 103 SOL. J. 889, and will no doubt now make the necessary amendment.

This modification, and the ones mentioned in the previous paragraph, have been in operation since 10th August, 1960. All the rest have been operative since 1st November, 1960.

A further modification to Ord. 25, which did not come into force until that later date, is in respect of proceedings transferred for purposes of a judgment summons. The 1960 r. 12 (2) provides that any proceedings under Ord. 37 for new trial or setting aside shall be made to the court in which the judgment was given and not to that to which the case has been transferred.

Some odds and bits

When a County Court Letter on the subject of the special jurisdiction of the county courts appeared in a previous issue ("Brine Pumping and All That," p. 100, *ante*), a correspondent did some sharpish to-task-taking on the grounds that such matters were too trivial to merit mention. The 1960 r. 13 revoking Ord. 41, r. 7, which deals with the appointment and change of guardians for the purpose of the Agricultural Holdings Act, 1948, appears to support his contention, so we will not mention it. On the other hand, holding our thumbs and crossing our fingers lest we offend again, the 1960 r. 14 does seem to call for a word. This first says that proceedings under the Guardianship of Infants Acts, 1886 and 1925, should normally be determined in chambers. The same goes for applications to the court by infants for consent to marry under s. 3 of the Marriage Act, 1949. It seems rather unlikely that it has ever been considered that such private matters could be properly dealt with in open court, but no doubt a definite rule is desirable (see "Minor Matters" at p. 398, *ante*—though in this case no amendment is required). As far as Marriage Act applications are concerned, it is now ruled that a registrar can determine them—again, a point that has usually been assumed in the past. A copy of the application must be served on every person whose consent is required but who has refused it, and the application need not be made by a next friend. This is an interesting and obviously necessary exception to Ord. 3, r. 2.

There follows a minor modification to the form of the notice in respect of proceedings under s. 11 of the Married Women's Property Act, 1882. Rule 14 (4) of the 1960 Amendment Rules inserts into Ord. 46 a new rule, numbered 18, which, *inter alia*, lays down the procedure for an application to a county court under Pt. IV of the Mental Health Act, 1959.

Money again

The 1960 r. 15 gets down to earth again with modifications to the all-important costs order, Ord. 47. The first is apparently a purely verbal one to ensure that only court fees appropriate to the amount recovered shall be allowable. Then, more importantly, the power of the court to fix counsel's brief fee in a scale 1 case that is certified fit for counsel is removed (Ord. 47, r. 18 (2)). Finally, 1960 r. 16 extends the group of institutions eligible to give security under Ord. 48, r. 18.

The rest of the statutory instrument consists of consequential alterations to forms and so forth, and detailed consideration of them would not only be unnecessary but tedious.

These Amendment Rules contain a considerably mixed bag of provisions on a variety of subjects. One gets the impression that they may prove to be grass in which a snake or two may lurk. More amendments to past County Court Letters—and possibly even the present one—may ultimately be found to be necessary.

Time alone will show.

J. K. H.

PRIVATE STREET WORKS PROCEEDINGS

THROUGHOUT the country there are still a number of estate roads which are in law "private streets"; fortunately their number is not increasing at anything like the pre-war rate. Since 1950 at least (and in some towns before that date) developers of new estates are in many cases persuaded or compelled by the local authority to construct adequate roads as part of their building development; persuaded by the device of agreements under s. 40 of the Highways Act, 1959,* or compelled under the machinery of some local Act in force in the district. Nevertheless there is still a considerable "back-log" of private streets not yet maintainable at the public expense, and most local authorities deal with a proportion of these each year—usually taking the streets in worst condition first. By "dealing with" such streets we intend to convey that the authority (borough or urban district council, or in a rural district a county council) resolve to make up the street at the expense of the frontagers under either the "code of 1875" or the "code of 1892" to be found in Pt. IX of the Highways Act, 1959, or possibly under some private Act to a similar effect. In this article it is proposed to consider two matters in connection with such proceedings, distinguishing between the two codes of 1875 and 1892, namely, the remedies open to frontagers by way of appeals, and the basis on which charges are made on the frontagers.

Code of 1892

In the case of proceedings under the Act of 1892—much the more popular code in force at the present time—the remedies of a person served with a notice stating that the local authority have resolved to make up the private street on to which premises of which he is the owner fronts, adjoins or

* These agreements were made much more popular by the passing of the New Streets Act, 1951 (which is now the "advance payments code" of Pt. IX of the Highways Act, 1959), for the complicated and somewhat onerous provisions of that Act are avoided where a s. 40 agreement is entered into (this section replaced s. 146 of the Public Health Act, 1875).

abuts, or to which his property has access (see Highways Act, 1959, s. 176 (3)), are threefold :—

(*a*) To object to the local authority on one or more of the grounds listed in s. 177 ; if the local authority do not accept the objection, it will be determined by the local magistrates ;

(*b*) To appeal to the Minister of Housing and Local Government, in certain limited circumstances only ;

(*c*) To claim compensation from the local authority—again in special circumstances only.

We will now deal with these *seriatim*.

(*a*) *Objections.*—Objections must be framed so as to raise one or more of the matters listed in s. 177 ; it is submitted that when the objection is referred to the magistrates, the objector is limited to the matters raised in his objection (see, e.g., *Southampton Corporation* v. *Lord* (1903), 67 J.P. 189) ; on the other hand, the local authority appear before the magistrates and must prove their case " as if they were proceeding summarily to enforce payment of a sum of money summarily payable " (Highways Act, 1959, s. 178 (2)). Therefore it seems that all the preliminary steps provided for in the Act, the service of notices, etc., must be strictly proved to the satisfaction of the magistrates, although the objector may not be able to rely on any " material informality," etc. (see s. 177 (1) (*b*)), unless he has made this one of his grounds of objection. In practice of course, the very fact that the objector is before the court will often establish that any informality in notices or service cannot be material.

The most substantial objection that can be put forward is that the street in question is not a private street at all ; it will not be sufficient to show that it is a highway over which the public have rights to pass and repass (indeed the great majority of private streets made up under these codes are such highways), as it will also be necessary, from the objector's point of view, to establish that the street is in fact maintainable at the public expense (or, in pre-1960 terms, " by the inhabitants at large "). If this can be done, the objector will be " home," and no street works charges can fall on him or on any other frontager. How this may be established is discussed in more detail in the present writer's booklet " Road Charges " (Oyez Practice Note No. 37, 2nd ed., 1959), to which the reader is referred. If the objector's advisers do not consider this ground of objection would succeed in the particular case—and it is normally only in the case of a street of some age that he is at all likely to be able to establish the necessary facts—the next most rewarding line of attack is to argue that the particular objector's property should not be included in the provisional apportionment. The fact that the frontager may not have any access to the street, or may not use any existing access (as in the case, e.g., of a flank frontage) will not normally be any justification for the exclusion of the premises from the provisional apportionment (although it may be a useful argument on " degree of benefit "—see below). However, it may be possible to show that the premises do not front on the street at all (possibly because of the existence of an intervening " insulating " strip ; but the effect of s. 209 of the 1959 Act must not be overlooked), or that s. 176 (3) should not be invoked in the particular case.

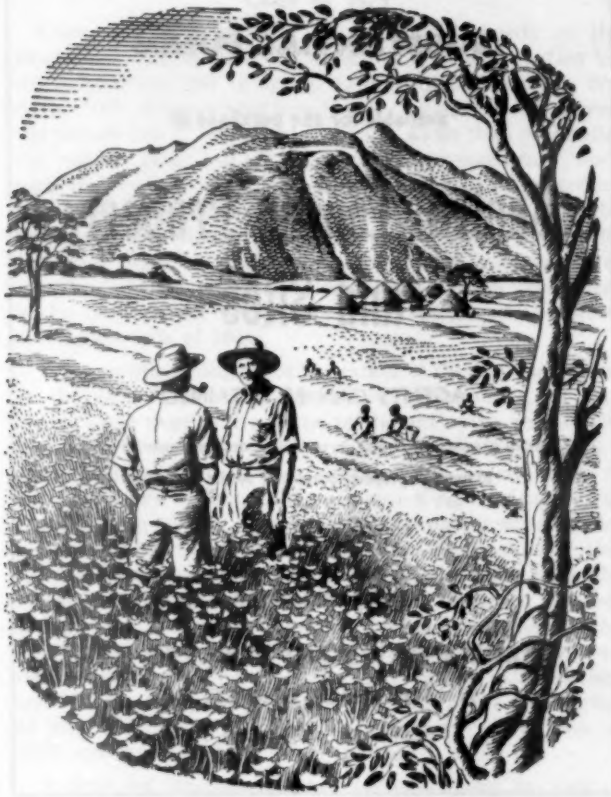
Sometimes it can be argued that the proposed works are unreasonable—perhaps because they are premature (as in *Southgate Corporation* v. *Park Estates (Southgate), Ltd.* [1954] 1 Q.B. 359)—or that they are excessive. The effect of establishing that the estimated *expenses* are excessive may be to secure the deletion of a particular item in the specification (e.g., the provision of roadside trees in the verge), or the substitution of a lower standard for that specified (e.g., the kind of surface dressing employed), and so achieve a reduction in the total sum that will eventually be apportioned between all the frontagers, including the objector. Merely to argue that the *estimate* for the work specified is excessive is somewhat fruitless, for if the work is eventually completed at less cost than that estimated, the frontagers must benefit, as the final apportionment is made on the basis of the actual and not the estimated cost.

"Degree of benefit"

All the above considerations apply in any case where the street is made up under the code of 1892 ; but when the authority have in relation to that street taken " degree of benefit " into account (a course which they cannot be compelled to adopt in proceedings before the magistrates : see *Bridgwater Corporation* v. *Stone* (1908), 99 L.T. 806), an objector can argue that the degree of benefit has not been correctly assessed in his case. Thus, a frontager having a flank frontage only to the street may be able to show that the sum apportioned on the basis of frontage against his premises should have been written down by, e.g., more than the 33⅓ per cent. allowed by the local authority, because his property will " benefit " from the works less than will another property in the street with a comparable frontage. Such arguments turn, of course, on questions of fact ; if the magistrates accept an objector's argument and reduce the sum apportioned on his property the result will be either that there is a larger sum to be apportioned between the other frontagers, or that the local authority may decide to increase their contribution to the works (or to make one, if they have not already so decided) under s. 210 of the 1959 Act.

(*b*) *Appeals to the Minister.*—These are comparatively rare under the code of 1892 ; the procedure is regulated by s. 207 of the 1959 Act, from which it will be observed that the Minister " may make such decision as to him seems equitable and the decision shall be final and binding on all parties." On any such appeal it is provided by s. 186 that no matter may be raised which could have been raised on an objection to the apportionment (under, e.g., s. 177), but an appeal will otherwise lie at the suit of any person aggrieved by a decision of the local authority. In practice, about the only matter that can be raised on such an appeal is the fact that the authority have not in the particular instance exercised the discretionary powers given to them by s. 176 (2) or (3) of the 1959 Act—e.g., that they have not taken " degree of benefit " into consideration. Unlike the " objection " procedure, an appeal to the Minister will not lie at provisional apportionment stage ; the would-be appellant must wait until a demand for payment of expenses has been served upon him.

(*c*) *Compensation.*—A claim for compensation may be made against the local authority by any person who can show that he has sustained damage as a consequence of the execution of the street works (see Highways Act, 1959, s. 205). Such claims are in practice very rare, and the commonest circumstances where a claim is likely to arise are the case of a shopkeeper whose trade is adversely affected by the execution of the works. As private streets are usually residential in character and the local authority will probably be prepared to take special measures to ensure that a small shopkeeper is not inconvenienced, it will be appreciated that such claims will not often arise.



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Code of 1875

Under the code of 1875, the principal remedy of the frontager is not to make an objection for determination by the magistrates, but to appeal to the Minister under s. 207 of the 1959 Act as above mentioned. In this case, however, the jurisdiction of the Minister is much wider than it is under the code of 1892, and all the matters that could have been used to found an objection under the alternative procedure may be used as grounds of an appeal to the Minister, and the same considerations, *mutatis mutandis*, apply, with the exception, however, that the local authority have no power to take "degree of benefit" into consideration (and there is also no provision corresponding to s. 176 (3), which applies only to the code of 1892).

If the frontager objects to the extent of the frontage shown in the apportionment in respect of his premises, he may within three months, by notice to the authority, require the matter to be settled by arbitration (1959 Act, s. 190 (2)), but the jurisdiction of the arbitrator will be restricted to such questions of fact. There is also a right of appeal to the local magistrates against the original notice served under s. 189, requiring each frontager to make up the street; this right is rarely exercised in practice, and all that could be raised in such proceedings would be that the street was not a "private street" (because it was maintainable at the public expense); moreover, the fact that this argument could be raised in proceedings before the magistrates does not restrict the jurisdiction of the Minister in any appeal to him under s. 207, as there is no provision in the code of 1875 corresponding to s. 186 of the code of 1892.

A claim for compensation may be made under the code of 1875 in circumstances in which such a claim will lie under the code of 1892 (see above).

Most authorities now operate under the code of 1892, and therefore proceedings under the older code of 1875 are comparatively rare.

Assessment of charges

The remedies of frontagers under the two codes having been briefly outlined, it remains to emphasise that under either code the estimated expenses of the local authority must be apportioned "according to frontage" (see ss. 176 (1) and 190 (1) of the 1959 Act); when the actual costs have been ascertained, a final apportionment must then be prepared on the same basis and the sums so computed demanded accordingly.

In practice the street is first surveyed in detail and the total frontage (on each side) computed; vacant lots, cross streets, etc., must be included. The estimated (or final, as the case may be) expenses are then divided by the total frontage expressed in feet, and this will then give the cost per foot. If "degree of benefit" is taken into account, the apportionment must still be made according to frontage (*Parkstone Primrose Laundry, Ltd.* v. *Poole Corporation* (1950), 114 J.P. 354), but the actual frontage is reduced (or increased—as may be the case with commercial or industrial premises which will benefit more from the works than normal residential property) by a fraction, usually expressed as a percentage, *before* the total frontage to the street is computed. The effect therefore of taking "degree of benefit" into consideration is to alter the sum that would otherwise fall on the other frontagers. In some cases the local authority may decide to make a contribution towards the cost of the street works from the general rate fund, under s. 210 (1) of the 1959 Act. This they will normally do if, for example, the street being made up will form a means of communication between other streets, or if a sewer constructed as part of the works will take sewage or surface water from other premises or streets. However, the authority cannot be compelled to make such a contribution in these or other circumstances, either by way of objections before the magistrates (*Chester Corporation* v. *Briggs* [1924] 1 K.B. 239), or, it seems, on an appeal to the Minister (under either code). Where the authority do decide to make such a contribution, however, this must be deducted from the total expenses before the cost per foot frontage is computed, as all frontagers must benefit equally from the authority's decision.

In addition, the authority may decide to bear the cost of street works apportioned on any particular premises having a flank or rear frontage only, under s. 210 (2). Here the authority merely stand in the shoes of the particular frontager (either wholly or in part), and other frontagers will not be affected one way or another. This, again, is a discretionary power, which the authority cannot be compelled to adopt; it would be used, presumably, in cases of hardship only. This subsection is new, having been adopted in the 1959 Act from a precedent appearing in a number of modern local Acts; there is therefore as yet little evidence as to how the power will be exercised by local authorities generally.

J. F. GARNER.

COUNTY COURT BENCH

The Queen has appointed Mr. JOHN LAWRENCE ADDLESHAW to be a judge of county courts.

His Honour Judge RICE-JONES retired on 30th October after fifteen years' service on the County Court Bench. The Lord Chancellor has arranged that he will be replaced at Croydon by His Honour Judge ARTHUR COHEN, whose place as one of the judges at Marylebone will be taken by His Honour Judge MAIS. His Honour Judge IFOR LLOYD, Q.C., will become one of the judges of the West London County Court. His Honour Judge LESLIE is being transferred to London as one of the judges of the Willesden County Court and Mr. J. L. Addleshaw will succeed him in the north as one of the judges of Circuit 14 (Leeds, etc.).

The President of THE LAW SOCIETY, Mr. Denys T. Hicks, gave a luncheon party on 26th October at 60 Carey Street, W.C.2. The guests were: Viscount Harcourt, Lord Justice Pearce, Sir Alexander Johnston, Sir William Haley, Mr. John Thompson, Q.C., Brig. Sir Alexander Killick, Mr. A. J. Driver, Mr. W. L. Addison and Sir Thomas Lund.

LAW LECTURES

A course of three lectures entitled "The Courts in Contemporary Society" will be given at King's College, Strand, at 5 p.m. on 10th November, 1960, 30th January and 9th March, 1961. The syllabus is: 10th November, "The Civil Courts," by the Hon. Mr. Justice Diplock; 30th January, "The Courts in Scotland," by Professor T. B. Smith, Q.C., D.C.L., F.B.A., Professor of Civil Law in the University of Edinburgh; 9th March, "The Criminal Courts," by Professor D. Seaborne Davies, M.A., LL.B., J.P., Professor of Common Law in the University of Liverpool. Admission is free, without ticket.

The fifth Noah Barou Memorial Lecture, under the auspices of the World Jewish Congress, British Section, will be given by Professor L. C. Green, LL.B., Professor in International Law in the University of Malaya in Singapore, who will lecture on "The Position of the Individual in International Law" on Tuesday, 8th November, at 8 p.m. at the Gustave Tuck Theatre, University College, Gower Street, London, W.C.1.

Country Practice

ANYONE MISSING?

A FEW minutes after nine each morning our managing clerk starts opening the mail and sorting it into heaps. One or more partners generally attend this ceremony—often the brightest moment of a dull day. Even the advertisements are handed round before going woomf into the wastepaper basket. The occasional bouquet or raspberry is held up for inspection before being allocated to its appropriate department. Very rarely, however, something arrives which electrifies—like the news, broken to me by a debtor, that my letter before action had been forwarded to Her Majesty the Queen. The debt is still owing.

One of these surprising letters reached me recently, smuggled in from a foreign country. One of our number is missing; wilfully by missing, though possibly brainwashed. Anyhow, I had better quote from the letter, which is headed simply "New York."

> My host is a little disappointed in me. I am very vague about the population of our home town and the number of square miles it covers, and when it comes to disclosing how much it costs to erect our civic buildings, I must admit to being downright evasive.

This, I think, shows the right spirit; once you admit to anything definite, your brain is not only washed but spin dried.

> You would have loved it in Washington; especially the conducted tour over their Scotland Yard—the F.B.I. they call it. When he brought us to the fingerprint department, our guide spread out his hand and told us that everybody had fingerprints; like his, only different. "I guess *some* of you knew that already," he added. He gave me some bullets afterwards, to take home for the children.

This shows that, whatever else may have happened to my correspondent, his powers of observation are as strong as ever. I, too, happen to have had some knowledge of fingerprint theory. It happened years ago, when I was arranging the defence of a young housebreaker. One night, after the depositions but before the trial, the office was ransacked; and so as to disentangle the various prints on the office safe, our British police took my fingerprnts. The safe, by the way, was unlocked, so no real damage was done. Heaven knows what would have happened if whoever-it-was had been obliged to use explosives. I hope the children (to get back to my mysterious letter) enjoyed their bullets.

> I got pally with a chap from Australia. He had taken an apartment in New York before going on to the "do" in Ottawa. One evening a very nice young lady paid him a visit and gave him a right ticking off because his name was not on the Voters List, and how on earth was Dick going to get elected President if citizens neglected to register? It took him quite a while to explain that, coming from Sydney, Australia, he did not get a vote. She told him that he was already talking very good English, and it was time he should be taking out naturalisation papers.

This seems to indicate the existence of a resistance movement. I found something of the same attitude during the war whenever I referred to the Canadian Army as native troops. I am notifying the Colonial Office of this evidence of disaffection on the part of the Australians.

> That London agent of ours was just as stupid as ever. Missing from the banquet with the bankers until after the fish, he was. Said he'd had it with some Elks dining on the 96th floor before he realised his mistake.

As this part of the letter is obviously in code, I will not reveal its significance. Agents, of course, seem to get everywhere.

> They took me to the Night Court in New York—as a visitor, of course. There were eight Chinamen up for gambling. Fan-dango, I think they called it. They had the best lawyer since Marshall Hall. "Do you positively identify my clients?" he says to the police officer. The police officer looks from one to the other and back again. "Case dismissed," says his honour. Very interesting chap, this lawyer; told me his clients were all brothers anyway.

The reference to night courts ties up with other information given to me about the plight of lawyers in America. I gather that in a fair-sized firm of twenty-seven partners it is rather difficult for one partner to make the acquaintance of all the others—at least until he has been taken off the night shift.

Now we come to the final, tragic paragraph; the ultimate undermining of my correspondent's morale.

> About my missing the flight back, I know that some of you have been worrying, but I am quite all right, really I am. My host says that as long as I carry on with the washing-up and baby sitting, I can stay as long as I like; and I have found a place where you can get un-iced beer.

If any fair-sized English firm has a partner missing, would they communicate with me through the Editor? I may be able to help.

"HIGHFIELD."

Societies

The following programme for November and December is announced by THE LAW SOCIETY YOUNG MEMBERS GROUP (meetings at The Law Society's Hall at 6.30 p.m.): Monday, 7th November, "The Home Office," by Sir Charles C. Cunningham, K.B.E., C.B., C.V.O., Permanent Under-Secretary of State to the Home Office; Monday, 21st November, Wine and Cheese Tasting Evening (limited attendance by ticket only obtainable from the Honorary Secretary); Monday, 5th December, "New Scotland Yard," by Mr. H. W. W. Hannam, Ex-Detective Chief Superintendent of Metropolitan Police.

The annual dinner of the PLYMOUTH INCORPORATED LAW SOCIETY was held on 15th October. Among the guests were Sir Archie Pellow Marshall, Mr. D. I. Rendell, president of the Cornwall Law Society, Mr. S. W. Wright, president of the Devon and Exeter Incorporated Law Society, and Mr. F. N. Wyatt, president of the Somerset Law Society.

A reunion dinner will be held at University College London on Friday, 17th February, 1961, for former undergraduates or postgraduates who entered the college before 1918. As the number of places will be limited, early application should be made for invitations to the dinner and should be addressed, in any case before 31st December, to the Assistant Secretary, University College London, Gower Street, W.C.1.

FUTURE BROADCASTS

A dramatised documentary on bankruptcy, "The Road to Carey Street," will be broadcast on B.B.C. television on Thursday, 10th November.

A series of four wireless programmes on "Crime and Punishment" will be broadcast on Network Three on Wednesdays, 16th, 23rd and 30th November and 7th December. Among others speaking will be Lord Birkett on "The Art of Sentencing" and Dr. Glanville Williams on "What is Crime?"

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"The Solicitors' Journal"
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WARRANTIES AND CONDITIONS IN HIRE PURCHASE

THE Hire Purchase Act, 1938, was extended by the Act of 1954 to apply to hire-purchase and credit sale agreements about goods where the hire-purchase price or total purchase price does not exceed £300. In agreements about new goods on hire purchase, s. 8 of the 1938 Act implies in any event two warranties and two conditions. There is a warranty that the hirer shall have and enjoy quiet possession of the goods and one that they shall be free from any charge or encumbrance in favour of a third party. The conditions are that the owner shall have a right to sell the goods and that they shall be of merchantable quality except as regards defects of which the owner could not reasonably have been aware or which, if the hirer examined the goods or a sample, he should have noticed. Where the goods are let as second-hand goods, and the note or memorandum of the agreement says so, the above warranties and conditions are all implied except the last condition about merchantable quality. Whether the goods are new or second-hand, where the hirer expressly or by implication makes known the particular purpose for which the goods are required, there is an implied condition that the goods shall be reasonably fit for such purpose. None of these warranties or conditions can be contracted out of except the last condition about fitness for a particular purpose, and then the owner must prove that before the hirer entered into the agreement the provision excluding that condition was brought to the hirer's notice and explained.

Suing the finance company

"The legal relationship between the hirer, the dealer and the hire-purchase company at various stages in the transaction still involves many problems which have not been authoritatively solved." So said Diplock, J., in *Lowe* v. *Lombank, Ltd.* [1960] 1 W.L.R. 196; p. 210, *ante*. That case concerned an attempt by the owner, the finance company, to contract out of the implied condition of fitness for a particular purpose where the hirer had by implication made it known. The court easily found that a widow buying a second-hand motor car impliedly made known that she wanted it for transport. There was, however, a clause in the agreement expressing acknowledgment by the hirer that she, having examined the goods, found no defects such examination should have revealed, and that the goods were of merchantable quality, with a further acknowledgment that no particular purpose had been made known, but that nevertheless the goods were fit for the particular purpose in point. The court held that these representations about past facts in a contractual agreement were not themselves contractual, but at most capable of giving rise to an estoppel (which the facts here forbade). The owners also relied on a "delivery receipt" signed by the hirer as raising an estoppel by expressing an acknowledgment that the hirer had read and fully understood the hire-purchase agreement, and had examined the motor car and found it in good order and condition. But the court decided against this contention on the facts of the case. Even if the facts had been in the owner's favour as regards the clearness of the representations, the intention that they should be acted upon and the belief in their truth, the court left undecided whether by authorising the dealer to proffer upon delivery of the goods a document couched in such terms, the owners, when the goods are in fact delivered against signature of the "delivery receipt," do not accept by conduct the hirer's offer constituted by signing the hire-purchase agreement. If this were so there would be no further act the owners could perform to their detriment, and so the hirer could not be estopped from relying on the implied condition imported by the Act of 1938.

This case well illustrates that written words which are not supported by factual reality are unlikely to help in evading the one implied condition in the 1938 Act which can be contracted out of. The dearth of reported cases in which the owner is a party turning on the other statutory warranties and conditions emphasises how much they turn on questions of fact.

Suing the dealer

Normally, because the dealer, unless he provides his own hire-purchase finance, is not a party to the agreement with the hirer, he cannot be sued for breach of any warranty or condition in s. 8 of the 1938 Act. However, despite an early setback, authority has developed for holding him liable on collateral warranties, should he give them. In *Drury* v. *Buckland, Ltd.* [1941] 1 All E.R. 269, a hirer attempted unsuccessfully to make a dealer liable on the footing that the hire-purchase transaction was in law a sale between the dealer and the hirer, and that the Sale of Goods Act, 1893, accordingly applied, but the Court of Appeal held that the intervention of the finance company as owner was a reality, and that therefore there was no contract of sale between dealer and hirer. *Brown* v. *Sheen and Richmond Car Sales, Ltd.* [1950] 1 All E.R. 1102, was distinguished from the last case because the dealer gave a collateral warranty to the hirer which induced the hirer to enter into a contract with the owner and so established a relationship between the hirer and the dealer independent of the Sale of Goods Act, 1893, and entitling the hirer to damages when the warranty was broken. This success was repeated, and the ground further explored in *Andrews* v. *Hopkinson* [1957] 1 Q.B. 229. In that case the dealer, speaking of the motor car in question, had addressed the hirer with these winning words: "It's a good little 'bus; I would stake my life on it; you will have no trouble with it." McNair, J., held that these words amounted at least to a warranty that the motor car was in good condition and reasonably safe and fit for use on a public highway, rejecting the contention that they were a mere puff. He held that the contractual relationship between the hirer and the dealer established by the hirer entering into a contract with a third party (the owner) in reliance on the dealer's warranty entitled the hirer, when the warranty was broken, to damages not only in respect of the difference in value between the motor car as it was warranted and as it was in fact, but also for personal injuries resulting from the breach of warranty.

Alternative claims against the dealer

The hirer also claimed in negligence against the dealer in that case, a claim which naturally did not depend on the words creating the warranty. The judge allowed this claim, too, and framed the duty of care in the terms that where a motor dealer, in the absence of reasonable anticipation that the motor car would be examined by the party taking it or by a third party before being put on the road, puts into circulation in the hands of his customer a motor car which is in fact in a dangerous condition when the defect rendering the condition dangerous consists of a defect which could and ought to have been discovered by reasonable diligence on his part, then the motor dealer is liable in negligence to his customer, the hirer. The damages are to be in respect of the

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difference in value between the motor car as it should have been and as it was in fact, and also for personal injuries to the hirer resulting from the breach of duty. Presumably, on the authority of *Malfroot* v. *Noxal* (1935), 51 T.L.R. 551, the dealer would also be liable in negligence for personal injuries to a passenger of the hirer. The judge further considered favourably, without deciding, whether despite *Drury* v. *Buckland, Ltd.*, *supra*, it might not now be possible to say that although there was no contract of sale between dealer and hirer, yet the existence of a contractual nexus as found in later cases was sufficient to import in common law such warranties and conditions as are contained in s. 14 of the Sale of Goods Act, 1893, the Act itself being a codification of the long existing common law. Hitherto, however, it seems that the giving of a warranty by the dealer has constituted the consideration moving from him to the hirer, so that this alternative presents itself: either the dealer gives a warranty, in which case the hirer sues for breach of that warranty and there is no need of those implied in the 1893 Act, or else he does not give a warranty, in which case there is no contractual nexus and so no opportunity to imply warranties contained in the 1893 Act. Nevertheless, this antithesis is not conclusive, and doubtless the subject will come up again.

Credit sales

No warranties or conditions are implied by the Hire-Purchase Acts in credit sale agreements, but naturally the Sale of Goods Act, 1893, applies, and in this connection ss. 12 and 14 in particular. Unlike a hire-purchase agreement, a credit sale agreement may contain a valid provision excluding any of the statutory warranties and conditions by virtue of s. 55, but such provisions are construed with inimical subtlety, with devious hostility, and many perish. There is some correspondence between the warranties and conditions implied in the two varieties of agreement. In the credit sale agreement there are the same two warranties, one for quiet enjoyment and one for freedom from encumbrances, in this case undisclosed encumbrances only. There is a similar condition as to title to sell the goods and the familiar condition of fitness for a particular purpose which is more elaborate and more dependent on circumstances than that in the Hire Purchase Act, 1938. Finally, there is a condition that goods bought by description should be of merchantable quality, for which there is no counterpart in hire-purchase agreements.

If I were to say more about credit sales this article would become that which it is not, an article about sale of goods.

M. I. T.

Landlord and Tenant Notebook

TENANT'S DUTY TO PAINT

WHEN, in the course of his judgment in *Gardner* v. *Bidwell* [1960] 1 W.L.R. 752; p. 585, *ante*, Paull, J., had occasion to suggest an example of a covenant which might be "reasonably" fulfilled, he visualised a tenant's covenant to paint once in every three years: a reasonably minded tenant might well come to the conclusion that the premises would come to no harm if the repainting were left over for a further year.

It might be pointed out that, even if the covenant did not permit of elasticity, the Landlord and Tenant Act, 1927, s. 1, would—if the tenant's conclusion were well founded—deprive the landlord of any effective remedy.

Apart from that, the choice was a felicitous one. The decision in *Harris* v. *Jones* (1832), 1 M. & Rob. 173, shows that long before the enactment of the 1927 Act a landlord who insisted on literal performance of the covenant might fare badly.

No damages

The plaintiff in that case had let a house for six years, the tenant covenanting at great length well and sufficiently to repair, uphold, amend, etc., the premises with the appurtenances and fixtures and marble and other chimney-pieces, etc., by and with all and all manner of needful and necessary reparations, cleansing and amendments whatsoever during the term, and, all the said fixtures, articles and things being well and sufficiently repaired, upheld, supported and paved, cleansed, painted and emptied and kept, that he should and would, at the expiration of the said term, yield and deliver up the premises in good and substantial repair and condition. Then, though "well and sufficiently painting" had been mentioned among the verbiage, of which I have cited part only, came covenants devoted to the process in question followed; a covenant to paint the outside of the wood and iron work every third year, and to paint the inside in the fifth year.

In the action for dilapidations, breaches of both painting covenants were mentioned. There was a conflict about the performance of the general covenant, the defendant calling evidence to show that the house was in a better state when the term ended than it had been in at the commencement thereof, and that it had been left in tenantable repair. But there was no evidence that he had had the outside painted in the third year or the inside in the fifth year.

Tindal, C.J., directed the jury that, as regards the general covenant, the words at the end—yielding up in good and substantial repair—were the *clue*, and that they were to consider whether the covenant had been really and *substantially* complied with; as regards the covenant to paint the inside in the fifth year, that the plaintiff was entitled to nominal damages. (The omission to paint the outside appears to have been forgotten.)

What the jury did was to return a verdict for the defendant. Whereupon the plaintiff obtained a rule for a new trial. As the application came before a court which included Tindal, C.J., the proceeding was much in the nature of an appeal from Julius to Cæsar. The learned chief justice was not persuaded to modify his views about the general covenant; and when it was urged that in any event there ought to be a new trial as regards the breach of the obligation to paint in the fifth year, he hinted that if there were no costs would be awarded.

Palm-tree justice

There is, of course, much to be said against treating such a decision as an authority. The evidence that the house had, in fact, been improved should have been rejected,

though *Payne* v. *Haine* (1847), 16 M. & W. 541, and *Proudfoot* v. *Hart* (1890), 25 Q.B.D. 42 (C.A.), had not been decided; and the fact that the jury went one better than they were invited to suggests that sympathy had clouded their judgment. A long time was to elapse before the Landlord and Tenant Act, 1927, s. 18 (1), modified the right to damages; and it covers damages claimed during the term, though chiefly aimed at landlords who collected, by way of dilapidations after term expired, sums which they had no intention of spending on repair work (as in *Rawlings* v. *Morgan* (1865), 18 C.B.N.S. 776). This delay may have been because—though occasionally judicial criticism was levelled at exaggeration in schedules of dilapidations—there was a protest against the straining of covenants by Willes, J., coupled with an invocation of the principle of give and take, in *Scales* v. *Lawrence* (1860), 2 F. & F. 289, and Cave, J., took a similar line in *Perry* v. *Chotzner* (1893), 9 T.L.R. 488. Tindal, C.J., so often came down on the side of the covenanting tenant in the 1830's that it may have been thought that the learned chief justice erred on the side of favouring the broad approach and substantial compliance. Thus *Harris* v. *Jones* was followed by *Gutteridge* v. *Muynard* (1834), 1 M. & Rob. 334, in which Tindal, C.J., said: "If it appear that the tenant has . . . laid out money from time to time upon the premises, it would not perhaps be fair to judge him very rigorously by the reports of a surveyor, who is sent in upon the premises for the very purpose of finding fault"; and in *Stanley* v. *Towgood* (1836), 3 Bing. N.C. 4, he said: "In all these cases the question is whether the premises have been kept in substantial repair as opposed to claims for fancied injuries. . . ." And Tindal, C.J., had practised as a special pleader.

Rehabilitation

But if Tindal, C.J., was one of those reformers who appeared too early, not only the Landlord and Tenant Act, 1927, s. 18 (1), but also the judgments of the Court of Appeal in *Brown* v. *Davies* [1958] 1 Q.B. 117 (C.A.), make it necessary to treat his approach with respect. "Observations of Tindal, C.J., in *Gutteridge* v. *Muynard* (1834), 1 M. & Rob. 334, applied," runs a paragraph of the headnote to the last-mentioned decision; and while those observations did not include the caustic reference to surveyors engaged in preparing schedules of dilapidations, and the recent decision concerned the scope of "reasonable wear and tear" qualification (for discussion and also criticism, see 101 Sol. J. 913), there was no suggestion that Tindal, C.J.'s habit of demanding substantial rather than literal performance amounted to misinterpretation of covenants.

Specified intervals

A lease which does not mention any painting at all may oblige a tenant to paint (*Monk* v. *Noyes* (1824), 1 Car. & P. 265; *Proudfoot* v. *Hart* (1890), 25 Q.B.D. 42 (C.A.)) and one may wonder whether such covenants as call for two coats of good oil and white lead paint to be applied to the outside wood and iron work in a proper and workmanlike manner once in every three years, and three coats once in every seven years, have not outlived their usefulness. Undoubtedly, they may save argument and, when a row of houses is let to different tenants by the same landlord, make for uniformity of appearance. But rigid programmes have their disadvantages as well and these include the diverse possibilities of technical improvements in paint and of orders made under the Clean Air Act, 1956, s. 11.

R. B.

HERE AND THERE

GRAVE MEDITATION

Forgive me if this week's meditation turns out to be a little macabre. The fall of the year, the fall of the leaf, the daily incessant fall of the rain, seeking out and seeping through every crack and crevice in the house, inclines the mood of the mind to thoughts of wills and executors and cemeteries, and the creaking of the ghastly *chariot des morts* which the Breton peasant, quaking in the night, hears, or used to hear, presaging death. Once such dread sounds belonged only to the lonely heathlands and wastes, but it seems that, if you are of a morbid disposition, you can enjoy them to the full no further afield than the sedate suburban streets of Bromley in Kent. The English town dweller has come to take it for granted that Death should be quiet and discreet, an intruder whom a progressive civilisation has taught not to announce his approach ostentatiously with banshee wailings to the discomfort of the neighbours and not to expect to be entertained with wakes and drinkings and public display. He must transact his business briefly with all convenient speed and begone. But in Bromley they found that Death had settled down among them in season and out of season.

THE VOICE OF DEATH

His presence there was not marked by the awful proverbial stillness of the grave. Day in and day out he shrieked at them and hammered insistently at their ears. He did not wait to be called upon to make his presence felt. "Horror" may be a current fashion with a large section of the population to-day, but not in the more reserved parts of Bromley. The Breton peasant may have no remedy against the nuisance of being awakened by the groaning of that spectral cart. But a Kentish man can have recourse to the Bromley County Court and that, indeed, did one of the aggrieved inhabitants of Bromley, with all the more desperation because he was a member of the Noise Abatement Society. Death had appropriately taken up his abode at the establishment of a neighbouring undertaker who was made defendant to the suit. The complaint was that the screeching of the planing of the coffins, the hammer of the nails, made day intolerable for the living. For four years, the plaintiff's wife told the judge, they had endured the cacophony of this *memento mori*. Sometimes she could not hear herself speak; sometimes she would rush to the door crying, "Give us a break! Let's have peace!" Almost she yearned for eternal rest. The nails driven home could be counted with the remorseless inevitability of death itself, eighteen in the bottom of the coffin and six at the head. Though they sounded a note of doom, they had at least the rhythm of the handicrafts-man's art; it was Death mechanised, Death shrieking with the voice of a planing machine that broke the nerves of the neighbours with a din which, said the plaintiff, might have awakened the dead, a consummation, it would seem on the face of it, not desirable in that particular line of business.

UNDERTAKER'S UNDERTAKING

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day, and it took four minutes to plane the lids, five minutes the sides and one minute the ends. But the case was not fought to the bitter end. Anxious, no doubt, to maintain the goodwill of his business among potential clients (since satisfied clients need not be considered) the defendant agreed to confine his planing to an hour daily between 4.30 and 5.30 and to keep his doors and windows closed; the plaintiff naturally was well satisfied with the undertaking of a professional undertaker. In the event of an emergency, a rush job for some client in a hurry to be buried, prior written notice would be given. The decision to make concessions was only reasonable since the defendant was in no position to retort to his critics: "It's your funeral." All the same, he might well profit by a study of the glamour and artistry introduced into the profession of mortician by his American colleagues and so vividly reproduced by Evelyn Waugh in "The Loved One." I feel sure that across the Atlantic the planing of coffins is overlaid with requiem chants, funeral music, Chopin or the Dead March in Saul. In closing his doors and windows the defendant might add these for good measure and goodwill.

RICHARD ROE.

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of "The Solicitors' Journal"]

Jurisdiction over Foreign Torts

Sir,—I was interested in the four articles on "Jurisdiction over Foreign Torts" appearing in your journal.

It is true that the law is replete with complexity but the practical difficulties nowadays are perhaps not quite so extensive as your contributor might imagine. For instance, in commercial transactions generally only contractual claims would arise, governed by an express choice of law clause, and torts connected with property would either be controlled by a related contract, the *lex actus* or the *lex situs* without so much as a glance at the dual liability rules of English private international law. Thus, the operation of these rules is to a great extent limited to torts affecting the person, such as negligence and defamation.

If, therefore, we look at this class of tort can we devise a more just and sensible rule? The proposal for a proper law of the tort (first put into coherent form by Dr. Morris in 64 *Harvard Law Review* 881—a fact not mentioned by your contributor) is very vague and there are just as many difficulties attendant upon this as with the present rules. This is well realised by the author, so much so, I feel, that he all but undermines the idea; e.g., is the law to be that most closely connected with the parties or the act, and if so when and in what circumstances? I suggest that the unstated assumption here is that when it is equitable that criterion (the act or the parties, etc.) will be used that will give the better remedy—hence its use in the *M'Elroy* v. *M'Alister* case.

I have always failed to see why English law as the *lex fori* should have equal importance with the *lex loci delicti commissi*, apart from grounds of public policy and, indeed, this is the view of many countries, including the United States. I would, therefore, propose that unless the *lex loci delicti commissi* provides a civil action entirely dissimilar to that of English law, or there would be unusual difficulty in enforcing a foreign civil action here, or there are other overriding considerations of public policy, the *lex loci delicti commissi* should be applied exclusively. However, as a slight compromise—and in considering that the type of tort in issue requires damage as an essential prerequisite of its validity—if all or some of the damage occurs or is felt within our jurisdiction then English law, as the *lex fori*, should govern without regard to the foreign law. In the majority of cases, of course, the fact that the damage occurs here will mean that English courts would regard this as an English action and automatically apply its own law. But there are others, such as the *M'Elroy* v. *M'Alister* situation, where, in these circumstances, the widow at least would recover her solatium.

As a solution to the difficulties inherent in fixing the *locus delicti* I would see no objection to this being in two or more territories so long as some damage occurs therein, e.g., physical injury in one, death in another. The plaintiff must opt for one territory and accept whatever remedies he has there, including the question whether the damage is too remote; the measure of damages would be a matter for the *lex fori*.

J. I. GREEN.

Prestwich.

[*Our contributor writes:* May I, very briefly, take up three points arising from this letter? (i) The series was specifically concerned with personal torts committed abroad. In some cases the defendant may be able to use defences drawn from a foreign contract with the plaintiff, or, if there is liability for breach of contract as well as in tort, the proper law of the contract may be applied and may prove more helpful than the "double rule" discussed in the series. (ii) Dr. Morris has, of course, been the leading protagonist of the view that we should look for a "proper law of the tort" over a period of many years. In a note published in 1949 (on the subject of the *M'Elroy* v. *M'Alister* case—12 *Modern Law Review* 248) he explains the need for such a proper law in these words:—

> "The present submission (which is admittedly heterodox) is not that liability for tort should be governed by the nationality, the domicile or the residence of the parties, but that there is room for applying what may be called the proper law of the tort; and that these factors, together with the place of the tort, ought to receive their due weight in deciding what is the proper law of the tort just as they do when the question is what is the proper law of the contract" (at p. 252).

(iii) Dr. Morris's suggestion has often been criticised as vague or difficult of application in the ensuing literature on the subject. Yet I believe that it does avoid placing the defendant at an unfair disadvantage through his being judged by an unfamiliar law and it does stress that no "rule of thumb" answer, but rather the consideration of a number of factors, can help in these cases.

Your correspondent's suggestion would, with respect, place an illusory reliance upon the *lex loci delicti commissi*, a reliance that in practice might be qualified out of existence and that would not redress the balance in the English rules that has for so long stood in favour of the *lex fori*. I do not believe that this suggestion adequately defines the relevance of the *lex loci* to the actionability of the tort.]

The Truth about Articled Clerks

Sir,—How refreshing it was to see that at least one person connected with the legal profession realises the worth of the articled clerk ("Law in a Cool Climate—VIII").

It is high time that the myth that insists that he is a useless adjunct, or a dead weight around the neck of the managing clerk, was dispelled once and for all.

DAVID GOLDMAN, LL.B.

Edgware.

Solicitors' Education

Sir,—Mr. William A. Lee may be interested to know that I was one of the 120 five-year men who took the June, 1960, Final. I passed with Third Class Honours.

Before entering articles I obtained five passes at Ordinary level only (much to my housemaster's surprise). I would not like to say whether I would have obtained the standard to be required under the new scheme, but at any rate this would appear not to have hindered my progress as an articled clerk.

Yours faithfully,

FIVE-YEAR MAN.

REVIEWS

Bingham's Motor Claims Cases. Fourth Edition. By LEONARD BINGHAM, Solicitor. pp. xlvii and (with Index) 775. 1960. London: Butterworth & Co. (Publishers), Ltd. £3 2s. 6d. net.

Bingham is well-known to all in legal, insurance and motor-transport circles who are concerned with any type of claim arising from the use of motor vehicles. It is a small encyclopaedia, a carefully annotated digest of the relevant cases, statutes and regulations; it is essentially a work for reference, and not a textbook to be read consecutively. The fourth edition maintains the high standard set by previous editions and, though the volume of material has increased, the author has, by pruning older matter, found it possible to maintain approximately the same length as the third edition. Apart from many cases, the new material includes the new Highway Code, the Occupiers' Liability Act, 1957, the Road Transport Lighting Act, 1957, and the Fatal Accidents Act, 1959.

The author continues to display amazing industry in collecting material from all possible sources, and has collated it under headings designed to assist the busy practitioner, although his classification might not satisfy an academic lawyer. There is no aspect of motor claims which falls outside Bingham: Practice, Evidence and Insurance are fully covered, and even Arbitration and Legal Aid and Advice are given chapters. It would, however, assist the practitioner if in future editions the headings within a chapter were in type different from that used for the names of cases; at present, when one glances quickly through a chapter to find a heading, the use of the same type for both is confusing, and the table of headings at the beginning of a chapter does not give page references. On a particular point, of course, the Index will be used, but the practitioner may well wish to use the table of headings at the beginning of the chapter to see whether he has overlooked other relevant matters. The value of Bingham is in its comprehensive coverage, and its material should be as accessible as possible.

In one respect, other writers, such as Munkman, and Kemp and Kemp, have followed Bingham, that is, in the collection of cases on the quantum of damages, in order to guide those advising on claims and settlement. But Bingham still provides valuable assistance on such a topic, in particular in the material obtained from newspaper reports; for instance, at pp. 386 et seq., he tabulates specimen awards of damages according to the type of injury suffered, and within each heading he arranges the cases according to the amounts awarded. A solicitor without a wide experience of motor accident cases will be most grateful for this assistance. Even the experienced practitioner will find much useful information collected within the covers of one book, e.g., the references to articles in legal periodicals wherever they are relevant.

An appendix contains cases reported since the proofs of the book, and, as with previous editions, the publishers will no doubt maintain its usefulness as an up-to-date work by publishing a supplement when necessary.

Damages for Personal Injuries and Death. Second Edition. By JOHN MUNKMAN, LL.B., of the Middle Temple, Barrister-at-Law. pp. xxvii and (with Index) 198. 1960. London: Butterworth & Co. (Publishers), Ltd. £1 10s. net.

This book was first published in 1956, and proved to be of considerable assistance to practitioners in the difficult task of advising on the assessment of damages for personal injuries and death. In the last four years there have been some important decisions, and one important statute, the Fatal Accidents Act, 1959, so that a new edition is justified. The author has used these years to collect many further illustrations of quantum of damages from newspapers as well as law reports: these are set out at the end of the book under headings dealing with different types of injury, in order to give "guidance of a very general nature." The new edition has been rewritten in parts, and carefully revised; the exposition is simple but clear, and is aided by sample calculations where necessary. Within a chapter, the section headings are printed in large type and, together with an adequate index, enable the busy practitioner to discover quickly the point he needs.

The book is essentially a handbook for daily reference on the practical application of the law, rather than an academic examination of the problems involved. The author assumes that his readers do not want a long and detailed discussion, but only a succinct and accurate statement of the law. Thus, there is no reference to academic work bearing on a topic, e.g., Hart and Honoré's "Causation in the Law," nor even to the Report of the Law Reform Committee on *British Transport Commission* v. *Gourley* [1956] A.C. 185, which is a case fully discussed in the text. Within these limitations, however, the book can be warmly recommended.

Principles of Local Government Law. By Sir IVOR JENNINGS, K.B.E., Q.C., Litt.D., LL.D. Fourth Edition by J. A. G. GRIFFITH, LL.M., Professor of English Law in the University of London, of the Inner Temple, Barrister-at-Law. pp. xxii and (with Index) 316. 1960. London: University of London Press, Ltd. 18s. net.

This new edition of a popular and useful students' introduction will be most welcome, as a great deal has happened since the appearance of the third edition in 1947. The learned author has not undertaken the new edition himself, entrusting that task to Professor Griffith, who comes to the task extremely well qualified as a teacher and as a member of two local authorities.

The lay-out and style of the book remain unchanged, and indeed the historical portions follow the third edition verbatim. Nevertheless, Professor Griffith has brought the text up to date and has included brief accounts of modern statutes, without over-emphasising the arguments and discussion that preoccupied local government in the period preceding the passing of the Local Government Act, 1958. In the chapter on Finance, an excellent section has been included on the difficult subject of Government grants. Central control remains substantially unaltered; in the chapter on Judicial Control perhaps more attention could have been given to the remedy by way of an action for a declaration and such cases as *Prescott* v. *Birmingham Corporation* [1955] Ch. 210.

This is, of course, a first book, and a students' book, but as an introduction to what can be a difficult subject the new edition easily retains pre-eminence.

Law for the Rich. A Plea for the Reform of the Abortion Law. By ALICE JENKINS with an Introduction by GLANVILLE WILLIAMS, LL.D., F.B.A. pp. 95. 1960. London: Victor Gollancz, Ltd. 15s. net.

This little book sets out the case for reform of the existing law on abortion and the development of the campaign to bring about that reform. Mrs. Jenkins has devoted more than forty years of her life to this cause, believing passionately that every woman should be able to exercise freedom of choice as to whether or not she should bear a child.

She supports her plea for reform with cogent reasoning and she is able to bring up in support the opinions of many famous and well-respected men and women. As the introduction by Dr. Glanville Williams points out, this is a book about a pressure group: since the cause espoused by the group concerns a law which is flouted about 54,000 times every year, it is one which must interest all those who are concerned with the dignity of the law.

Honours and Appointments

The honour of knighthood has been conferred on Mr. Justice (FENTON) ATKINSON.

Mr. ALAN EDGAR BENNETT, senior assistant solicitor to Wallasey Corporation, has been appointed chief assistant solicitor and assistant Clerk of the Peace at Plymouth.

Mr. PHILIP DAVID CHILDS, deputy coroner of Portsmouth, has been appointed coroner in succession to his late father.

Mr. GERALD RYDER, principal assistant solicitor to the Board of Trade, has been appointed Solicitor to the Board in succession to Sir Robert Speed, C.B.

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NOTES OF CASES

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Judicial Committee of the Privy Council

VENDOR AND PURCHASER: SPECIFIC PERFORMANCE: AGREEMENT TO SELL CROWN LAND: ADMISSIBILITY: KENYA

Denning *v.* Edwardes and Another

Viscount Simonds, Lord Morris of Borth-y-Gest and the Rt. Hon. L. M. D. de Silva

10th October, 1960

Appeal from the Court of Appeal for Eastern Africa.

Section 55 (6) (*b*) of the Indian Transfer of Property Act, 1882, which is applicable in Kenya, gives the buyer of immovable property a charge on the property for the amount of any part of the purchase price paid in anticipation of delivery. On a claim by the respondents for specific performance of an agreement of 17th April, 1954, whereby the appellant agreed to sell to them certain land held by him in the Highlands of Kenya under a registered Crown lease, the appellant contended that money passed from the respondents to him in circumstances which gave rise to a charge and that in consequence the agreement was inadmissible in evidence under s. 127 (2) of the Crown Lands Ordinance of Kenya (c. 155 of 1958) which provides, *inter alia*, that no evidence of a charge upon registered land shall be receivable unless created by an instrument in writing and the instrument has been registered. The appellant further contended that the agreement was void under s. 88 of the Crown Lands Ordinance, which provides: "(1) No person shall, except with the written consent of the Governor, sell [etc.] . . . any land . . . in the Highlands . . . nor shall any person enter into any agreement for any of the transactions referred to in this subsection without the written consent of the Governor . . . (3) Any instrument, in so far as it purports to effect any of the transactions referred to in subsection (1) . . . shall be void unless the terms and conditions of such transactions have received the consent of the Governor which shall be endorsed on the instrument." The consent had not been obtained for the agreement prior to its execution; it was obtained subsequently. The Supreme Court of Kenya held that the agreement was inadmissible and dismissed the action. On appeal, the Court of Appeal for Eastern Africa, on 22nd November, 1958, held that the agreement was admissible and was not void, and remitted the case for further proceedings. The appellant vendor appealed.

VISCOUNT SIMONDS, giving the judgment, said that what was rejected under s. 127 of the Crown Lands Ordinance was evidence of specified transactions—of sale, lease, transfer or charge—whereas here the agreement was not tendered as evidence of a charge; no charge was sought to be proved and the existence or otherwise of a charge was irrelevant to any issue in the suit, and the agreement was, accordingly, not excluded by s. 127 (2) from being received in evidence in the suit. *Dayal Singh* v. *Indar Singh* (1926), L.R. 53 I.A. 214, was distinguishable. Further, the agreement to sell was not void under s. 88. An agreement to sell did not "effect any transaction" within the meaning of subs. (3) of s. 88, which was not therefore applicable to the agreement in question, and the consent of the Governor need not be endorsed on it. Subsection (3) of s. 88 was not applicable to agreements for the transactions mentioned in subs. (1). Also, there was nothing contrary to law in entering into a written agreement of sale before the Governor's consent was obtained; the legal consequence was that the agreement was inchoate till that consent was obtained, but it became complete and completely effective after it was obtained. Appeal dismissed; case remitted to the Supreme Court for further hearing. The appellant would pay the respondents' costs of the appeal.

APPEARANCES: *Ralph Millner* (*Goodman, Derrick & Co.*); *S. P. Khambatta*, Q.C., *H. Lester* and *G. Chakravartti* (*Field, Roscoe & Co.*).

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law] [3 W.L.R. 801

RATING (AUSTRALIA): UNIMPROVED VALUE OF LAND: UNENCUMBERED FEE SIMPLE

Gollan and Another *v.* Randwick Municipal Council

Viscount Simonds, Lord Reid, Lord Radcliffe, Lord Tucker and Lord Morris of Borth-y-Gest

11th October, 1960

Appeal from the Full Court of the Supreme Court of New South Wales.

The Valuation of Land Act, 1916–1951, of New South Wales provides by s. 6 that "The unimproved value of land is the capital sum which the fee simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a *bona fide* seller would require, assuming that the improvements, if any, thereon, or appertaining thereto, and made or acquired by the owner or his predecessor in title had not been made." The appellants, the owners of land used as a racecourse—Randwick Racecourse—near Sydney, New South Wales, were the trustees of the property which had been vested by the Crown in their predecessors in fee simple upon the trusts and subject to the conditions, reservations and powers contained in two deeds of grant dated 1863 and 1935, which included, *inter alia*, a general right to resume any part of the lands for public purposes, and to take stone, gravel and timber. Under a power conferred by the first deed the land was leased to the Australian Jockey Club, the original power of leasing up to seven years having been extended to twenty-one years by the Australian Jockey Club Act, 1873. On a question as between the appellants and the respondent, Randwick Municipal Council, whether in ascertaining for rating purposes the "unimproved value" of the land under the Valuation of Land Act the valuation should or should not take into account the existence of the restrictions in the Crown grants, the Full Court of the Supreme Court of New South Wales, on a case stated, answered that question in the negative, and the trustees now appealed.

LORD RADCLIFFE, giving the judgment, said that the considerations that led the High Court in *Royal Sydney Golf Club* v. *Federal Commissioner of Taxation* (1955), 91 C.L.R. 610, to treat unimproved value under s. 3 of the Land Tax Assessment Act, 1910–1950 (which was in substantially the same terms as s. 6 of the Valuation of Land Act) as involving the hypothesis of "a fee simple unencumbered and subject to no conditions" (and which were to be preferred to the contrary view held in *Stephen* v. *Federal Commissioner of Land Tax* (1930), 45 C.L.R. 122) could be applied to unimproved value under s. 6 of the Valuation of Land Act. "The fee simple of the land" as used in s. 6 did not refer to the actual title vested in the owner at the relevant date with any restrictions by which it was affected, but to an absolute or "pure" title such as constituted full ownership in the eyes of the law. The principles which determined questions of compensation for property resumed or expropriated were not of assistance on questions of rating assessment. The Australian Jockey Club Act, 1873, did not create a restriction on alienation but merely recognised a restriction already created, so that the source of the restriction was not the Act but the original

Crown grant, and, accordingly, the restriction was not part of the general statutory law of the State to be taken account of (as were the county planning restrictions in the *Royal Sydney Golf Club* case, *supra*) in assessing the unimproved value. The Full Court had rightly held that in valuing the land the trusts, restrictions, conditions and provisos contained in the grants and in the Act of 1873 should not be taken into consideration. Appeal dismissed. The appellants must pay the respondent's costs of the appeal.

APPEARANCES: *R. O. Wilberforce*, Q.C., and *B. J. F. Wright* (*Bell, Brodrick & Gray*); *N. H. Bowen*, Q.C., *M. H. Byers* and *P. A. Twigg* (*Ranken, Ford & Chester*).

[Reported by CHARLES CLAYTON, ESQ., Barrister-at-Law] **3 W.L.R. 785**

Chancery Division

VARIATION OF TRUSTS: APPROVAL OF COURT ON BEHALF OF POTENTIAL STATUTORY NEXT-OF-KIN

***In re* Suffert's Settlement**

Buckley, J. 14th October, 1960

Adjourned summons.

By a settlement dated 15th May, 1953, the income of a trust fund was, in the events which happened, held on protective trusts for the daughter of the settlor during her life. On her death the capital and income of the fund were to be held on trust for such of her issue as she should appoint and in default of and subject to any appointment in trust for her children who being male attained twenty-one years or being female attained that age or married, if more than one in equal shares. Clause 5 of the settlement provided that if the daughter had no child who attained a vested interest the trust fund should be subject to a general testamentary power of appointment vested in the daughter, and in default of and subject to any appointment in trust for the persons who would have become entitled under the Administration of Estates Act, 1925, at the daughter's death if she had died intestate without ever having been married, as tenants in common in the shares in which they would have taken under the Act. The settlor's daughter, who at the date of the issue of the present summons was unmarried and had attained sixty-one years of age, had three first cousins, all of whom had attained twenty-one years of age. The daughter sought to vary the trusts of the settlement so that £500 should be held on protective trusts for her during her life and thereafter on trust for any husband who might survive her for life, and subject thereto on trust as to both capital and income for the persons who under the Act of 1925 would have become entitled at her death if she had died intestate without having been married, if more than one as tenants in common in the shares in which they would have taken under the Act, and subject thereto the capital and income of the trust fund should be held upon trust for her absolutely. The daughter applied under s. 1 of the Variation of Trusts Act, 1958, for the approval of that arrangement by the court on behalf of all unborn and unascertained persons who might become interested under the trusts of the settlement, only one of the three first cousins being made a party to the application.

BUCKLEY, J., said that the arrangement was one which it was quite proper to approve on behalf of any persons who might become entitled under the trusts of the settlement at the death of the applicant and who were not in existence. Section 1 (1) (*b*) of the Act of 1958 required that the applicant should be treated as having died at the date of the issue of the summons, that it be found out who in that event would have been her statutory next-of-kin, and that any persons (excluding infants, because they came under a different heading in the Act) who were within that class were persons whose interests the exception within s. 1 (1) (*b*) provided the court could not bind. It was impossible to say who were the statutory next-of-kin of somebody who was alive, but it was not impossible to say who were the persons who would fill that description on the hypothesis that the propositus were already dead. In this case there were a class of persons who might take an interest on the death of the applicant, and they were a class of persons who would be ascertained on that death, so that they would acquire their interest and be ascertained at one and the same date and upon one and the same event. He did not feel able to come to the conclusion that they were not persons who might become entitled to an interest under the trusts as being at a future date (namely, the death of the applicant) persons falling within the class of her statutory next-of-kin within the meaning of the exception in s. 1 (1) (*b*). If that view were right, then the section provided that he could not bind the interest of anyone who was at present in existence and would be a member of that class if the applicant had died at the date of the issue of the summons. His order would not bind the two first cousins who were not parties but were potential statutory next-of-kin, but he was willing to make an order to bind anyone else who was unascertained and who might become interested.

APPEARANCES: *J. A. Wolfe*, *J. E. Vinelott* and *John Bradburn* (*Kingsford, Dorman & Co.*, for *Dudley M. Paul & Co.*, Liphook).

[Reported by Miss M. G. THOMAS, Barrister-at-Law] **[3 W.L.R. 797**

Probate, Divorce and Admiralty Division

DIVORCE: CRUELTY: INSANITY AS DEFENCE: KNOWLEDGE THAT ACTS OF CRUELTY WRONG

Sofaer *v.* Sofaer

Collingwood, J. 29th July, 1960

Defended petition.

At the hearing of a defended suit for divorce the court found that a long course of cruel conduct from at least 1946 until August, 1956, alleged against the wife respondent, including unjustifiable nagging, assaults and other acts of violence, threats made by the wife with a view to obtaining her own ends, accusing the husband of practising black magic and ill-treating the children of the parties, was proved, and that the conduct had injured the husband's health. On behalf of the wife it was alleged that at all material times she suffered from such a defect of reason from disease of the mind as not to know the nature and quality of her acts or, alternatively, not to know that her said acts were wrong. The wife had been under mental treatment for periods from November, 1954, and in January, 1958, was certified and had been detained thereafter. All the medical witnesses agreed that she was suffering from paranoid schizophrenia, the onset of which probably dated from 1948, and that she knew the nature and quality of her acts. On the question whether the wife knew that her acts were wrong, the medical evidence was conflicting, three doctors being of the view that, as from various dates, the wife either did not know or probably did not know that her conduct was wrong, while the fourth doctor was of the opinion that, on the balance of probabilities, she was able to distinguish right from wrong. The wife had, on one occasion in 1954, expressed regret for her past behaviour and promised to behave better in the future. She had had an abortion performed in 1946 and thereafter had been greatly troubled by what she had done, and had condemned the conduct of a relative who had made illicit profits on the black market.

COLLINGWOOD, J., stated that unless the medical evidence established that the McNaghten Rules were applicable the husband had established conduct which amounted to cruelty in law. As to the first limb of that rule the evidence was all one way—that she did know the nature and quality of her acts. The next question was "Did she know that she was doing wrong?" In the context of matrimonial law he understood the word "wrong" as meaning not merely

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Hounslow.—ROPER, SON & CHAPMAN, Auctioneers, Surveyors, etc., 162 High Street. Tel. HOU 1184.

Moor Park and Northwood.—E. BECKETT, F.A.I., Surveyor, Chartered Auctioneer and Estate Agent, MOOR PARK ESTATE OFFICE, Moor Park Station, Northwood. Tel. Northwood (NH2) 4131. And at Harrow, North Harrow and Sudbury, Wembley.

Northwood.—GILBERT LUCK, F.A.L.P.A., Surveyors and Valuers, 58 Green Lane, Northwood. Tel. 2352/3/4, and 111 Pinner Road, Northwood Hills.

Northwood and Pinner.—MANDLEY & SPARROW, Auctioneers, Valuers, etc., 25 Maxwell Road, Northwood. Tel. 3295/6. And branches in Hertfordshire.

Northwood and Pinner.—SWANNELL & SLY, 3 Maxwell Road, Northwood. Tel. 19. Valuers, Auctioneers, etc.

Pinner and District.—BARR & MEAD (C. Grainer, F.A.L.P.A., M.R.San.I.), 2 High Street, Pinner. PINner 7727 and 7800. Also at South Harrow, Harrow and Ruislip.

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Southall and Greenford.—AUSTIN FARR & CO., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 11 South Road, Southall. SOU 6555 (4 lines). 45 The Broadway, Greenford. WAX 4642/4428.

Wembley Park.—LLOYDS (Principal D. J. Westmore, F.R.I.C.S., M.R.San.I.), Chartered Surveyors, Auctioneers and Valuers, 13 Bridge Road. Tel. Arnold 1123/4.

West Drayton and Yiewsley.—R. WHITLEY & CO., Chartered Auctioneers and Estate Agents, 40 Station Road. Tel. W. Drayton 2185.

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Norwich.—ALDRIDGE & PARTNERS, 22 Surrey Street, Surveyors and Estate Agents. Tel. Norwich 28517/8.

Norwich.—CLOWES, NASH & THURGAR, Est. 1848 (H. M. Thurgar, F.A.I., R. F. Hill, F.A.L.P.A., C. M. Thurgar, A.A.I.), 6 Tombland. Tel. 27261/2.

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Peterborough and District.—FOX & VERGETTE, Auctioneers, Valuers, Surveyors and Estate Agents, 16 Priestgate. Tel. 4261/2. Est. over 150 years.

Peterborough and Adjoining Counties.—NORMAN WRIGHT & PARTNERS, Surveyors, 26 Priestgate, Peterborough. Tel. 5695/6.

(continued on p. xxi)

NORTHUMBERLAND

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Newcastle.—DAVID A. LARMOUR & SON, F.R.I.C.S., F.A.I., Saville Row. Tel. Newcastle 20727/8.

WALLHEAD GRAY & COATES, Chartered Auctioneers, and Estate Agents, Surveyors and Valuers, 84 Pilgrim Street, Newcastle. (Tel. 27471/2.) 75 West Street, Gateshead. (Tel. 72197.) 7 Priestpoppie, Hexham. (Tel. 302.) 26 Frederick Street, Sunderland. (Tel. 2544.)

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Newark.—EDWARD BAILEY & SON, F.A.I., Chartered Auctioneers and Estate Agents, Surveyors and Valuers, 7 Kirkgate, Newark. Tel. 39.

Nottingham.—ROBERT CLARKE & CO., Chartered Surveyors and Rating Valuers, Oxford Street. Tel. 42534/5.

Nottingham.—WALKER, WALTON & HANSON, Chartered Surveyors and Valuers, Chartered Auctioneers and Estate Agents, Byard Lane. Est. 1841. Tel. Nottingham 54272 (7 lines).

Retford.—HENRY SPENCER & SONS, Auctioneers, 20 The Square, Retford, Notts. Tel. 531/2. And at 4 Paradise Street, Sheffield. Tel. 25206. And 91 Bridge Street, Worksop. Tel. 2654.

OXFORDSHIRE

Bicester, Thame and Oxford.—E. P. MESSENGER & SON, Chartered Surveyors, Auctioneers, Valuers, etc. Thame 263/4; Bicester 10; and Oxford 47281.

Oxford and District.—BUCKELL & BALLARD. Est. 1887. R. B. Ballard, F.A.L.P.A., H. I. F. Ryan, F.R.I.C.S., F.A.I., H. S. Ballard, A.R.I.C.S., F.A.I., 58 Cornmarket Street, Oxford. Tel. 44151, and at Wallingford, Berks. Tel. 3205.

Oxford, Banbury and surrounding districts.—E. J. BROOKS & SON, F.A.I. (Established 1840), Chartered Auctioneers and Estate Agents, Surveyors and Valuers, "Gloucester House," Beaumont Street, Oxford. (Tel. 4535/6), and 54 Broad Street, Banbury (Tel. 2670).

Thame and District.—PERCY BLACK & CO., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 60 North Street. Tel. 288.

SHROPSHIRE

Craven Arms.—JACKSON & McCARTNEY, Chartered Auctioneers, Valuers and Estate Agents. Tel. 2185.

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Shrewsbury and South Shropshire.—DEAKIN & COTTERILL, 8 Wyle Cop, Shrewsbury, Auctioneers, Estate Agents and Valuers. Tel. 5306 and 2313. And at Church Stretton.

Wellington.—BARBER & SON, Auctioneers, Valuers, Surveyors and Estate Agents, 1 Church Street. Tel. 27 and 444 Wellington.

Whitchurch.—JOSEPH WRIGHT, Auctioneers, Valuers and Estate Agents, 15 Watergate Street, Whitchurch. Tel. 62.

SOMERSET

Bath and District and Surrounding Counties.—COWARD, JAMES & CO., incorporating FORTT, HATT & BILLINGS (Est. 1903), Surveyors, Auctioneers and Estate Agents, Special Probate Department, New Bond Street Chambers, 14 New Bond Street, Bath. Tel. Bath 3150, 3584, 4268 and 61360.

Bath and District.—Estate Agents, Auctioneers and Valuers, Valuations for Probate, Mortgage, etc. HALLETT & CO., 3 Wood Street, Queen Square, Bath. Tel. 3779 and 2118.

Bath and District.—JOLLY & SON, LTD. (Est. 1825.) Estate Agents and Valuers, Funeral Directors, Probate Valuers, Chattell Auction Rooms, Milsom Street, Bath. (Tel. 3201.)

Bath, Bristol and Districts.—LOUIS POWELL & CO., Incorporated Auctioneers, Estate Agents and Valuers, 1 Princes Buildings, Bath. Tel. 2127.

Bath and the West.—CRISP'S ESTATE AGENCY (C. Cowley, F.V.I., Incorporated Surveyor and Valuer, J. L. Cowley, A.A.I., Chartered Auctioneer and Estate Agent) (Est. 1879), Abbey Chambers, York Street, Bath. Tel. 3606 and 61706.

Crewkerne.—25 miles radius.—TAYLOR & CO., Auctioneers, Valuers, Surveyors, Estate Agents. Tel. 546.

Taunton and District.—C. R. MORRIS, SONS AND PEARD, Land Agents, Surveyors, Valuers, Auctioneers, 6a Hammet Street. Tel. 2546. North Curry, Tel. 319

punishable by law but including that which was culpable or blameworthy. Certain parts of the evidence, as had been urged on behalf of the husband, were quite inconsistent with an inability on the part of the wife to distinguish right from wrong. The first of these was that in August, 1954, after the husband had left her for a time, she expressed regret for her past behaviour and promised to behave better in future. With respect to the view of three out of the four doctors who had given evidence and who had expressed the opinion that such an expression of regret did not show an awareness of the impropriety of the acts at the time when they took place, he (his lordship) found difficulty in ascribing an expression of regret to anything other than a realisation that there was something to regret, and, if language meant anything, a promise to reform in the future connoted that something which had been done in the past was wrong. His lordship referred to *Palmer* v. *Palmer* [1955] P. 4, at pp. 9–10. Another aspect of the wife's conduct which was inconsistent with an inability to distinguish right from wrong was her condemnation of the conduct of a relative who had been found to have been making illicit profits on the black market, which would seem to indicate a capacity to take an objective view of right and wrong. Another matter was her threats to commit suicide, to burn down the street, to stab the husband, none carried out but all made with a view to obtaining her own ends. There was also the evidence of the husband's sister that the wife confided to her that she had been greatly troubled about the abortion which she had had performed in Bombay, and she urged the witness not to have it done herself because it had troubled her so much. The question in issue was as to the state of mind of this wife years before she was admitted to a mental hospital in January, 1958. On the material before the court, a determination would be nothing more than guess-work. No one was in a position to give a positive answer, and he (his lordship) unhesitatingly preferred the opinion that the probabilities lay in favour of the view that at the material times the wife did know that her conduct was morally unjustified. There was one reservation which must be made, and that was in respect of her accusations against the husband of practising black magic towards her. Accepting that those accusations were prompted by delusional ideas, he did not think that they could be held to amount to cruelty. But those accusations formed but a small part of the whole and their exclusion did not affect the issue. Apart from this particular matter it was not possible to say that at any given point of time her behaviour must be regarded as having ceased to stem from her abnormal personality (her vicious temper, selfishness and a determination to get her own way at whatever cost) and thereafter must be regarded merely as a manifestation of schizophrenia. The wife had, therefore, been guilty of cruelty and she had not discharged the onus of proof that at the material time she did not know that her conduct was wrong. The husband was entitled to a decree nisi.

APPEARANCES: *J. B. Latey*, Q.C., *Bruce Campbell and Viscount Stormont* (*Cardew-Smith & Ross*); *R. A. J. Temple*, Q.C. (*Official Solicitor*).

[Reported by Miss ELAINE JONES, Barrister-at-Law] [1 W.L.R. 1173

Court of Criminal Appeal

CRIME: PREVIOUS INCONSISTENT STATEMENTS: NOT EVIDENCE

R. *v.* Golder; R. *v.* Jones; R. *v.* Porritt

Lord Parker, C.J., Hilbery, Byne, Ashworth and Elwes, JJ.

17th October, 1960

Appeals against convictions.

The appellants were charged with burglary and larceny; *G* was also charged with receiving a gold watch, part of the stolen property. The evidence against the appellants, apart from that of a witness, *T*, did no more than create grave suspicion. Before the committing magistrates, *T* had said that *G* gave her the watch and signed a deposition to that effect. At the trial *T* denied that *G* was the man who gave her the watch. She was treated as a hostile witness but refused to admit that her deposition was true. The deputy chairman in directing the jury indicated that it was open to them to act on the evidence contained in her deposition notwithstanding her repudiation of it. The jury convicted on the burglary and larceny counts.

LORD PARKER, C.J., said that the direction to the jury in regard to *T's* evidence was wrong in law and the convictions had to be quashed. A long line of authority laid down the principle that, while previous statements might be put to an adverse witness to destroy his credit and render his evidence given at the trial negligible, they were not admissible evidence of the truth of the facts stated therein. In the court's judgment, when a witness was shown to have made previous statements inconsistent with the evidence given by that witness at the trial, the jury should not merely be directed that the evidence given at the trial should be regarded as unreliable; they should also be directed that the previous statements, whether sworn or unsworn, did not constitute evidence on which they could act. The circumstances in the present case were such as to arouse grave suspicion, but having regard to the fact that the jury were invited to act, and all probability did act, on material on which in law they could not act, the court had to quash the conviction.

APPEARANCES: *Robin Simpson* (*Ludlow, Head & Walter; Registrar of Court of Criminal Appeal*); *W. M. F. Hudson* (*Moodie, Randall, Carr & Miles*, for *Bankes, Ashton & Hayward*, Stowmarket).

[Reported by Miss C. J. ELLIS, Barrister-at-Law] [1 W.L.R. 1169

Obituary

Mr. WALTER TREVELYAN CLARK, solicitor, of Malmesbury, died on 22nd October. He was admitted in 1938.

Mr. JOHN OSWALD JOBSON, solicitor, of London, E.C.4, died on 22nd October, aged 84. He was admitted in 1903.

Mr. ERNEST HARPER KEMPE, clerk to the Portslade, Sussex, Urban Council for 36 years from 1910, died at his home at Shoreham-on-Sea, Sussex, on 20th October, aged 83. He was admitted in 1899.

Mr. ERNEST CLIFFORD WEBSTER, solicitor, of London, W.C.2, died on 19th October, aged 79. He was admitted in 1905.

Personal Note

Mr. JOHN LIONEL WOOD is to retire from the office of clerk to the Worcester Magistrates in January next.

Wills and Bequests

Mr. EDWARD JUSTIN EVANS BAKER, solicitor, of Westminster, left £25,737 net.

Mr. PHILIP ST. JOHN CARRINGTON, solicitor, of Barnsley, left £39,847 net.

Mr. EDWIN HERBERT CLUTTERBUCK, solicitor, of Birmingham, left £40,404 net.

Mr. ALEXANDER LAURISTON, solicitor, of Redcar, left £60,368 net.

Mr. ERIC ARTHUR SCUDAMORE, solicitor, of Weston-super-Mare, left £27,255 net.

Mr. C. W. SMITH, solicitor, of Eastbourne, left £46,691 net.

IN WESTMINSTER AND WHITEHALL

ROYAL ASSENT

The following Bills received the Royal Assent on 27th October:—

Administration of Justice.
Noise Abatement.
Professions Supplementary to Medicine.
Public Bodies (Admission to Meetings).
Road Traffic (Driving of Motor Cycles).

HOUSE OF COMMONS

A. Progress of Bills

Read First Time:—

Rent Bill [H.C.] [26th October.

To amend the Rent Act, 1957; to provide stability of rents and security of tenure for tenants holding residential premises which by virtue of the said Act became released from rent control; to extend the jurisdiction of rent tribunals to unfurnished tenancies; to provide for the giving of information by landlords to tenants; and for purposes connected with the matters aforesaid.

B. Questions

Companies Act (Returns)

Asked whether he was aware that the Registrar of Companies was demanding, under threat of prosecution, annual returns in arrear that were eight years old, and why he insisted on the delivery of this out-of-date information, Mr. Maudling replied that companies were required by the Companies Act to deliver certain documents such as annual returns to the Registrar so that they might be available on the company's file for public inspection. It could not be assumed that information relating to a past period would not be wanted on such a search and the statutory record of the company was incomplete without it. When a company failed to comply with its obligations under the Act, it was the duty of the Registrar to take steps to secure that the missing documents were supplied. [25th October.

STATUTORY INSTRUMENTS

Agriculture (Areas for Agricultural Land Tribunals) (Amendment) Order, 1960. (S.I. 1960 No. 1885.) 5d.

This Order amends the Agriculture (Areas for Agricultural Land Tribunals) Order, 1959, by combining the Yorkshire and Lancashire Areas, with the exception of the North Riding of Yorkshire, which will be transferred to the Northern Area.

Assizes (Central Criminal Court District) Order, 1960. (S.I. 1960 No. 1955.) 5d.

This Order provides that the Autumn Assizes for 1960 for the County of Essex shall not be held at Chelmsford, and that persons who would have been tried at Chelmsford at those Assizes should be tried at the Central Criminal Court.

Chiswick–North of Harmondsworth Special Road Scheme, 1960. (S.I. 1960 No. 1911.) 6d.

General Optical Council (Disciplinary Committee Rules) Order of Council, 1960. (S.I. 1960 No. 1934.) 5d.

General Optical Council (Investigating Committee Rules) Order of Council, 1960. (S.I. 1960 No. 1935.) 5d.

General Optical Council (Rules relating to Injury or Disease of the Eye) Order of Council, 1960. (S.I. 1960 No. 1936.) 5d.

Hyde Park (Temporary Amendment) Regulations, 1960. (S.I. 1960 No. 1888.) 5d.

Import Duty Drawbacks (No. 12) Order, 1960. (S.I. 1960 No. 1887.) 5d.

Kent (Advance Payments for Street Works) Order, 1960. (S.I. 1960 No. 1914.) 4d.

Loddon Rural District (Advance Payments for Street Works) Order, 1960. (S.I. 1960 No. 1915.) 4d.

London–Edinburgh–Thurso Trunk Road (Dalshian Diversion) Order, 1960. (S.I. 1960 No. 1886 (S.97).) 5d.

London Traffic (Prescribed Routes) (Ilford) Regulations, 1960. (S.I. 1960 No. 1897.) 5d.

London Traffic (Prohibition of Waiting) (Dartford) Regulations, 1960. (S.I. 1960 No. 1913.) 5d.

Draft **Merchandise Marks** (Imported Goods) No. 1 Order, 1960. 5d.

North of Harmondsworth–Langley Special Road Scheme, 1960. (S.I. 1960 No. 1912.) 5d.

Opencast Coal (Rate of Interest on Compensation) Order, 1960. (S.I. 1960 No. 1883.) 4d.

Sevenoaks and Tonbridge Water Order, 1960. (S.I. 1960 No. 1875.) 5d.

Shipbuilding and Ship-repairing Regulations, 1960. (S.I. 1960 No. 1932.) 1s. 5d.

Stopping up of Highways Orders, 1960:—

County Borough of Barnsley (No. 2). (S.I. 1960 No. 1926.) 5d.
City and County Borough of Bath (No. 4). (S.I. 1960 No. 1905.) 5d.
County of Bedford (No. 7). (S.I. 1960 No. 1891.) 5d.
City and County Borough of Bradford (No. 8). (S.I. 1960 No. 1907.) 5d.
City and County of Bristol (No. 8). (S.I. 1960 No. 1903.) 5d.
City and County of Bristol (No. 9). (S.I. 1960 No. 1920.) 5d.
County of Cambridge (No. 4). (S.I. 1960 No. 1908.) 5d.
County of Durham (No. 23). (S.I. 1960 No. 1879.) 5d.
County of Kent (No. 27). (S.I. 1960 No. 1894.) 5d.
County of Lancaster (No. 23). (S.I. 1960 No. 1896.) 5d.
County of Leicester (No. 22). (S.I. 1960 No. 1892.) 5d.
City and County of Lichfield (No. 1). (S.I. 1960 No. 1921.) 5d.
City and County Borough of Liverpool (No. 18). (S.I. 1960 No. 1878.) 5d.
London (No. 57). (S.I. 1960 No. 1909.) 5d.
London (No. 58). (S.I. 1960 No. 1922.) 5d.
County of Middlesex (No. 13). (S.I. 1960 No. 1895.) 5d.
County of Middlesex (No. 14). (S.I. 1960 No. 1924.) 5d.
County of Northumberland (No. 8). (S.I. 1960 No. 1910.) 5d.
County of Nottingham (No. 9). (S.I. 1960 No. 1927.) 5d.
City and County Borough of Portsmouth (No. 6). (S.I. 1960 No. 1923.) 5d.
County of Rutland (No. 1). (S.I. 1960 No. 1889.) 5d.
County of Somerset (No. 11). (S.I. 1960 No. 1906.) 5d.
County of Suffolk, East (No. 3). (S.I. 1960 No. 1890.) 5d.
County of Surrey (No. 12). (S.I. 1960 No. 1928.) 5d.
County of Sussex, West (No. 14). (S.I. 1960 No. 1925.) 5d.
County of Worcester (No. 12). (S.I. 1960 No. 1904.) 5d.

Supreme Court Funds (No. 2) Rules, 1960. (S.I. 1960 No. 1931 (L.18).) 5d.

These Rules amend the Supreme Court Funds Rules so as to bring their terminology into accord with that of the Mental Health Act, 1959, and the Court of Protection Rules, 1960 (S.I. 1960 No. 728). A number of other minor and consequential amendments are also made in the Rules and in the Forms.

Teachers (Training Authorities) (Scotland) (Amendment No. 1) Regulations, 1960. (S.I. 1960 No. 1877 (S.96).) 6d.

Wages Regulation (Corset) Order, 1960. (S.I. 1960 No. 1916.) 6d.

Wages Regulation (Shirtmaking) Order, 1960. (S.I. 1960 No. 1917.) 8d.

Winchester–Preston Trunk Road and the North of Dunston–Stafford Trunk Road (North of Dunston Diversion) Order, 1960. (S.I. 1960 No. 1894.) 5d.

SELECTED APPOINTED DAYS

October

26th — Israel (Extradition) Order, 1960. (S.I. 1960 No. 1660.)

30th — Assizes (Central Criminal Court District) Order, 1960. (S.I. 1960 No. 1955.)

31st — Agriculture (Areas for Agricultural Land Tribunals) (Amendment) Order, 1960. (S.I. 1960 No. 1885.)

November

1st — County Court (Amendment) Rules, 1960 (S.I. 1960 No. 1275 (L.147)), remainder.
Court of Protection Rules, 1960. (S.I. 1960 No. 1146 (L.7).)
Criminal Appeal Rules, 1960. (S.I. 1960 No. 2161 (L.11).)
Magistrates' Courts Rules, 1960. (S.I. 1960 No. 1431 (L.16).)
Matrimonial Causes (Amendment) (No. 2) Rules, 1960. (S.I. 1960 No. 1261 (L.11).)

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Weston-super-Mare and District.—MASTERS & CO. F.R.I.C.S., F.A.I., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 5 High Street. Tel. 6443/4.

Yeovil and District.—PALMER, SNELL & CO., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. Tel. 25 and 1796. London Office: 130 Mount Street, W.1.

STAFFORDSHIRE

Stoke-on-Trent and North Staffs.—CHARLES BUTTERS & SONS, Established 1856. Chartered Auctioneers, Surveyors, Valuers and Estate Agents, Trinity Buildings, Hanley, Stoke-on-Trent. Tel. 2138/9. Also at Leek.

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Bury St. Edmunds and East Anglia.—LACY SCOTT AND SONS, 3 Hatter Street, Bury St. Edmunds. Phone 43 and 692.

Ipswich and East Anglia.—SPURLINGS & HEMPSON (Est. 1780), Chartered Surveyors, Chartered Auctioneers, 26 Princes Street, Ipswich. Tel. 51807/8.

Ipswich and East Anglia.—WOODCOCK & SON, 16 Arcade Street, Ipswich. Tel. 54352 (2 lines). Specialists in Selling Country Property and Farms. Established 1850.

Woodbridge and East Suffolk.—ARNOTT & CALVER, Auctioneers and Valuers. Est. 1870. Tel. 179.

SURREY

Addiscombe, Shirley, Croydon.—MILLER, WILKINS AND CO., Auctioneers, Surveyors and Valuers, 191 Lower Addiscombe Road. Tel. ADDiscombe 2233/4; and 142 Wickham Road, Shirley. Tel. ADDiscombe 4021.

Ashtead and Leatherhead.—DOUGLAS & CO., F.A.L.P.A. Principal Office: 8 High Street, Leatherhead. Tel. 4136/7 (5 Offices).

Camberley (Hants and Berks Borders).—SADLER AND BAKER, Chartered Auctioneers and Estate Agents, 95 High Street. Est. 1880. Tel. 1619.

Caterham and District, Sanderstead to Purley.—J. C. O'BRIEN, Station Avenue, Caterham. Tel. 4255 and 348. Limpsfield Road, Sanderstead. Tel. 4426.

Cobham.—EWBANK & CO., in association with Mann and Co. Est. 1891. Tel. 47. Offices throughout West Surrey.

Coulsdon.—SINDEN, TOMKINS & KING, F.A.L.P.A., Valuers, Surveyors and Estate Agents, 26 Chipstead Valley Road. Tel. UPLands 0600.

Croydon.—BLAKE, SON & WILLIAMS. Est. 1798. Chartered Auctioneers and Estate Agents, Surveyors and Valuers, 51 High Street, Croydon. CROydon 7155/6.

Croydon, Addiscombe and Wallington.—BOWDITCH & GRANT. (Est. 1881). Surveyors, Valuers, Auctioneers, 103/105 George Street, Croydon. Tel. CRO 0138/9.

Croydon and District.—JOHN P. DICKINS & SONS, Surveyors, Valuers and Estate Agents. Est. 1862. 2 and 4 George Street, Croydon. CROydon 3128/9/30.

Croydon and London.—HAROLD WILLIAMS AND PARTNERS, Chartered Surveyors, Valuers, Chartered Auctioneers and Estate Agents, 80 High Street, Croydon. Tel. Croydon 1931. And at Temple Chambers, Temple Avenue, E.C.4. Tel. Ludgate Circus 9288.

Croydon and Epsom.—ROBT. W. FULLER, MOON AND FULLER, Chartered Surveyors, Valuers and Auctioneers, 85 High Street, Croydon (CRO 3124/6), and at Epsom (communications to Croydon Office). Established 1824.

Croydon and Sutton.—SAINT, SYMINGTON AND STEDMAN, Surveyors, Auctioneers and Valuers, 106 High Street, Croydon. Tel. CRO 2216/7. And at 6 Cheam Road, Sutton. Tel. VIG 7616/7.

Dorking.—ARNOLD & SON, Auctioneers & Surveyors, 171 High Street and branches. Est. 1855. Tel. 2201/2.

Dorking.—WHITE & SONS, 104 High Street. Agricultural and General Surveyors and Valuers. Tel. 3255.

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(continued on p. xxii)

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November 1st (*contd.*)

Meat (Staining and Sterilization) Regulations, 1960. (S.I. 1960 No. 1268.)

Mental Health (Hospital and Guardianship) Regulations, 1960. (S.I. 1960 No. 1241.)

Mental Health (Registration and Inspection of Mental Nursing Homes) Regulations, 1960. (S.I. 1960 No. 1272.)

Mental Health Review Tribunal Rules. (S.I. 1960 No. 1139.)

National Assistance (Registration of Homes) (Amendment) Regulations, 1960. (S.I. 1960 No. 1273.)

National Health Service (Functions of Regional Hospital Boards, etc.) Amendment Regulations, 1960. (S.I. 1960 No. 1240.)

National Health Service (Superintendents of Mental Hospitals, etc.) Regulations, 1960. (S.I. 1960 No. 1239.)

Rules of the Supreme Court (No. 3), 1960. (S.I. 1960 No. 1263 (L.13).)

Supreme Court Funds (No. 2) Rules, 1960. (S.I. 1960 No. 1931 (L.18).)

DEVELOPMENT PLANS

Proposals for Alterations or Additions Submitted to Minister

Title of plan	Districts affected	Date of notice	Last date before which written objections or representations may be made
Bath City Council	Area of the council	30th September, 1960	19th November, 1960
Berkshire County Council	Area of the council	23rd September, 1960	10th November, 1960
Derbyshire County Council	Ripley and Heanor Urban Districts; Belper Rural District	14th October, 1960	30th November, 1960
	Chesterfield Borough; Chesterfield Rural District	14th October, 1960	30th November, 1960
	Chesterfield Rural District	14th October, 1960	30th November, 1960
	Chesterfield Rural District; Clowne Rural District; Staveley Urban District	14th October, 1960	30th November, 1960
	Dronfield Urban District; Chesterfield Rural District	14th October, 1960	30th November, 1960
	Alfreton Urban District; Blackwell Rural District	14th October, 1960	30th November, 1960
	Staveley Urban District; Chesterfield Rural District; Chesterfield Municipal Borough.	14th October, 1960	30th November, 1960
	Dronfield and Staveley Urban Districts; Chesterfield and Clowne Rural Districts	14th October, 1960	30th November, 1960
Lancashire County Council	Ashton-under-Lyne, Crosby, Eccles, Farnworth, Heywood, Leigh, Middleton, Mossley, Prestwich, Radcliffe, Stretford, Swinton and Pendlebury, and Widnes Non-county Boroughs; Atherton, Audenshaw, Chadderton, Crompton, Denton, Droylsden, Failsworth, Formby, Golborne, Haydock, Huyton-with-Roby, Irlam, Kearsley, Kirkby, Litherland, Little Lever, Milnrow, Newton-le-Willows, Ormskirk, Prescot, Rainford, Ramsbottom, Royton, Skelmersdale, Thurton, Tyldesley, Upholland, Urmston, Westhoughton, Whitefield and Worsley Urban Districts; Warrington, West Lancashire and Whiston Rural Districts	23rd September, 1960	18th November, 1960
London County Council	Metropolitan Borough of Greenwich	28th September, 1960	15th November, 1960
London County Council	City of Westminster	30th September, 1960	22nd November, 1960
Sunderland County Borough Council	Area of the council	30th September, 1960	19th November, 1960

Proposal for Modification by Minister

Title of plan	Districts affected	Date of notice	Last date before which written objections or representations may be made
West Riding of Yorkshire County Council	Castleford, Harrogate, Pontefract, Brighouse and Spenborough Boroughs; Elland, Kirkburton (part), Knaresborough, Mirfield, Skipton, Featherstone, Garforth, Knottingly, Ripponden and Rothwell Urban Districts; Rotherham (part), Wortley (part), Hemsworth, Kiveton Park, Nidderdale, Osgoldcross, Tadcaster, Skipton and Wetherley Rural Districts	21st October, 1960	18th November, 1960

Amendments by Minister

Title of plan	Districts affected	Date of notice	Last date for applications to High Court
Flintshire County Council	St. Asaph Rural District ..	12th September, 1960	6 weeks from 15th September, 1960
Lancashire County Council	Leigh	10th October, 1960	6 weeks from 11th October, 1960
Leicester City Council	Area of council	21st October, 1960	6 weeks from 21st October, 1960
County of Northumberland	Bedlingtonshire Urban District	14th October, 1960	6 weeks from 14th October, 1960
West Sussex County Council	Shoreham and Lancing ..	23rd September, 1960	6 weeks from 23rd September, 1960
West Sussex County Council	Chichester and Westgate Fields	7th October, 1960	6 weeks from 7th October, 1960

Approval by Minister

Title of plan	Date of notice	Last date for applications to High Court
Merthyr Tydfil County Borough Council	6th October, 1960	6 weeks from 14th October, 1960

VISIT OF CHIEF JUSTICE OF CEYLON

The Chief Justice of Ceylon, Mr. Hema Basnayake, and his wife arrived in Britain on 31st October for a visit arranged by the British Council in return for the visit to Ceylon made last February by the Master of the Rolls and Lady Evershed. The sixteen-day programme includes dining with the Queen at Buckingham Palace, attending the State opening of Parliament and a reception by the Lord Mayor of London at the Mansion House. The Chief Justice is to meet the Lord Chancellor, the Lord Chief Justice, the Master of the Rolls, the Attorney-General, the Chairman of the General Council of the Bar and the President of The Law Society. He is also attending a number of courts, including the Privy Council, the Court of Appeal, the Court of Criminal Appeal and courts of the Queen's Bench and Probate Divorce and Admiralty Divisons.

NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1959

The following notices of the preparation of maps and statements under the above Act, or of modifications to maps and statements already prepared, have appeared since the tables given at pp. 708 and 785, *ante* :—

DRAFT MAPS AND STATEMENTS

Surveying Authority	Districts covered	Date of notice	Last date for receipt of representations or objections
Cheshire County Council	Area of the council: modifications to draft maps and statements of 8th December, 1953, 13th April, 1955, 24th July, 1956, 14th November, 1957	13th October, 1960	30th November, 1960
Lincoln County Council, Parts of Holland	Area of the council: modifications to draft map and statement of 28th December, 1954	7th October, 1960	8th November, 1960
Norfolk County Council	Farehoe and Henstead Rural Districts: modifications to draft map and statement of 31st January, 1958	18th October, 1960	15th November, 1960
Surrey County Council	Area of the council: modifications of the revised draft map and statement	19th October, 1960	21st November, 1960

DEFINITIVE MAPS AND STATEMENTS

Surveying Authority	Districts covered	Date of notice	Last date for applications to High Court
East Suffolk County Council	Aldeburgh and Eye Boroughs; Felixstowe, Halesworth, Leiston, Saxmundham, Stowmarket and Woodbridge Urban Districts; Blyth, Debden, Gipping and Hartismere Rural Districts	4th October, 1960	15th November, 1960
County of Pembroke	Tenby, Pembroke and Haverfordwest Boroughs; Fishguard, Goodwick, Narberth, Milford Haven and Neyland Urban Districts; Haverfordwest, Cemaes, Narberth and Pembroke Rural Districts	22nd September, 1960	3rd November, 1960

PROVISIONAL MAPS AND STATEMENTS

Surveying Authority	Districts covered	Date of notice	Last date for applications to Quarter Sessions
Breconshire County Council	Builth Wells and Llanwrtyd Wells Urban Districts and Builth Rural District	14th October, 1960	11th November, 1960

REVISED DRAFT MAPS AND STATEMENTS

Surveying Authority	Date of Notice	Last date before which representations or objections may be made
Bucks County Council	30th September, 1960	7th February, 1961
Salop County Council	29th September, 1960	31st January, 1961

POINTS IN PRACTICE

Questions, which can only be accepted from practising solicitors who are subscribers either directly or through a newsagent, should be addressed to the "Points in Practice" Department, The Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, London, E.C.4. They should be brief, typewritten in duplicate, and accompanied by the name and address of the sender on a separate sheet, together with a stamped addressed envelope. Responsibility cannot be accepted for the return of documents submitted, and no undertaking can be given to reply by any particular date or at all

Partnership—OPTION TO PURCHASE DECEASED PARTNER'S SHARE—EXERCISE

Q. I act for *W*, the widow and administratrix of the estate of *T*, who died on 2nd July, 1960. *T* deceased was in partnership with his two brothers under a partnership deed. The deed provides, *inter alia* : "If any partner shall die during the continuance of the partnership the survivors shall have an option (to be exercised within one month after the death of the deceased partner) to purchase the share of the deceased partner in the capital and assets of the business on the following terms." On 15th July, 1960, the solicitors acting for the partnership wrote to me as follows : "We understand that the two surviving partners desire to purchase the share of the deceased partner in accordance with the provisions of the partnership agreement." The partnership agreement does not specify the manner in which the option shall be exercised. Do you consider the letter from the partnership solicitors of 15th July, 1960, to be a proper exercise of the option ?

A. Whether or not the sentence quoted from the letter of 15th July, 1960, operated to exercise the option so as to create a binding contract is a question of construction and authority does not assist. The rest of the letter as to context, the lack of a sixpenny stamp as to intention, and your reply as to your and your client's understanding are all important considerations. Our opinion, which cannot be given with certainty, is that the sentence quoted should be construed not as an exercise of the option but as an indication that the option may be exercised. The word "understand" seems to imply a lack of instructions or authority to exercise the option on behalf of the surviving partners or to communicate their exercise, and with the words "desire to" imports futurity. Thus, in our view, the option has not been exercised, and since the month has expired (unless the partnership deed otherwise provides) s. 42 of the Partnership Act, 1890, will apply.

Damage to Property by Person Defending Himself

Q. Our client owns a shop next door to a club (frequented by coloured people) the proprietor of which became engaged outside the premises in a scuffle with alleged gatecrashers of the club, in the course of which the proprietor was pushed through our client's shop window. He alleges he was merely defending himself. The other man disappeared. Can any claim lie against the proprietor for the damage caused to our client's property ?

A. If it can be established that the proprietor was merely defending himself, we do not think that your client has a remedy against him. In Winfield on Tort, 6th ed., at p. 61, it is said : "Suppose that in protecting myself from an unlawful attack by *A*, I injure you, an innocent passer-by. On what principles ought my liability to you to be discussed ? . . . It would seem that the true principles are inevitable accident if I did not intend the harm and was not negligent. . . . Provided I acted reasonably I am excused, and not otherwise." Again, force and violence of others is a defence to an action in trespass : *Smith* v. *Stone* (1647), 82 E.R. 533 ; cf. *Gilbert* v. *Stone* (1647), 82 E.R. 902. See also the judgment in *Scott* v. *Shepherd* (1773), 2 W.Bl 892, in relation to the question of the liability of those who threw the squib to another part of the building.

"THE SOLICITORS' JOURNAL"

Editorial, Publishing and Advertising Offices : Oyez House, Breams Buildings, Fetter Lane, London, E.C.4. Telephone : CHAncery 6855.

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PUBLIC NOTICES

NEW SCOTLAND YARD

ASSISTANT PROSECUTING SOLICITORS on permanent staff of Solicitor's Department. Age 24–40. (Salary (men) on appointment £950 to £1,135 according to age; on confirmation £1,300 at age 30, rising to £1,850. Non-contributory pension. Candidates who have passed their final examination but have not yet been admitted will be considered. Particulars from Secretary, Room 165 (LA), New Scotland Yard, S.W.1.

CRAWLEY URBAN DISTRICT

(Population 53,000)

ASSISTANT SOLICITOR

Assistant Solicitor required. Salary within A.P.T. Grade V (£1,310 per annum–£1,480 per annum) plus temporary local weighting of £45. National Conditions and Superannuation Acts apply. Assistance with provision of housing accommodation if required. Applications stating age, qualifications, present position and giving details of experience with names of two referees to the undersigned by 25th November, 1960.

R. W. J. TRIDGELL,
Clerk of the Council.

Robinson House,
Robinson Road,
Crawley.

KENT COUNTY COUNCIL

requires an ASSISTANT SOLICITOR for prosecutions, advocacy and general legal work. The salary grade will be fixed having regard to the age, experience and qualifications of the successful applicant, but will not exceed Grade A.P.T. V (£1,310–£1,480).

Applications, stating age, date of admission, particulars of present and any previous appointments and general experience and giving the names of two referees, to reach the Clerk of the Council, County Hall, Maidstone, not later than the 18th November, 1960.

BOROUGH OF KETTERING

APPOINTMENT OF
ASSISTANT SOLICITOR

Applications are invited for the post of Assistant Solicitor in the Town Clerk's Department at a salary in accordance with the Special Grade for Assistant Solicitors (£890–£1,245 per annum). Applications will be considered from November Finalists. The post affords an opportunity of gaining wide and varied experience on both the legal and administrative sides.

Housing accommodation will be available if required.

The appointment will be subject to the National Scheme of Conditions of Service and the Local Government Superannuation Acts.

Applications, stating age, qualifications and experience, together with the names of two referees, should reach the undersigned not not later than the 15th November, 1960.

D. DUNSFORD PRICE,
Town Clerk.

Council Offices,
Huxloe Place,
Kettering.

BOROUGH OF DAGENHAM

APPOINTMENT OF SECOND
ASSISTANT SOLICITOR

Applications are invited for the appointment of Second Assistant Solicitor in my Department. Salary scale £890–£1,245 per annum plus London Weighting (age 21–25, £25 per annum, age 26 and over, £45 per annum).

This post offers an excellent opportunity for a Solicitor (or a Solicitor awaiting admission) to obtain wide experience of local government law and administration prior to advancing to the higher graded positions of the service.

Application forms, together with further details of the post, obtainable from the undersigned. Closing date for applications is 19th November, 1960.

KEITH LAUDER,
Town Clerk.

Civic Centre,
Dagenham.

BOROUGH OF DUNSTABLE

DEPUTY TOWN CLERKSHIP

Applications from Solicitors invited. Salary grading within A.P.T. IV (£1,140–£1,310) according to experience. Applications must reach Town Clerk, Municipal Offices, Dunstable, Beds., by 7th November, 1960, from whom any further information may be obtained.

URBAN DISTRICT OF MERTON AND MORDEN

LEGAL ASSISTANT

Applications for the appointment of Legal Assistant (unadmitted) are invited from persons experienced in conveyancing, mortgages and general legal work; applicants should be capable of working with minimum supervision; Local Government experience would be an advantage. The appointment is superannuable and subject to a medical examination. Salary £980–£1,185 (A.P.T. III, plus London Allowance).

Applications, stating age, education, qualifications and experience with the names of two referees, should be sent to me not later than 18th November, 1960.

SIDNEY ASTIN,
Clerk of the Council.

Morden Hall, S.W.19.
1st November, 1960.

COUNTY COUNCIL OF ESSEX

Applications invited from men who have knowledge of procedure in County Court, particularly in relation to collection of debts; experience in local government office not essential. Candidates should be good typists. Some knowledge of High Court procedure and Common Law an advantage. Salary will be according to qualifications and experience but will not exceed £815 a year. Five-day week of 38 hours; sick pay allowances; superannuation; canteen; sports club and playing fields; holiday—15 working days plus 3 additional days after 10 years' service. Canvassing forbidden. Applications in own handwriting stating particulars of age, education, qualifications, experience and the names and addresses of three referees should be sent as soon as possible to the County Clerk, County Hall, Chelmsford, Essex.

CITY OF LIVERPOOL

TOWN CLERK'S DEPARTMENT

Applications are invited for the appointment of Assistant Solicitor. Commencing salary, according to experience, within range £935–£1,310 per annum (A.P.T. Scales III/IV). Duties comprise general legal work, including advocacy.

Applications from persons awaiting admission as Solicitors will be considered.

Application form (returnable by 21st November, 1960) and further particulars from the undersigned.

The appointment is superannuable and subject to the Standing Orders of the City Council. Canvassing disqualifies.

THOMAS ALKER,
Town Clerk.

Municipal Buildings,
Liverpool, 2. (J.6489).

COUNTY BOROUGH OF WEST BROMWICH

ASSISTANT SOLICITORS

Assistant Solicitors required—N.J.C. Conditions of Service. Salary not to exceed £1,245 per annum. Committee work. Five-day week from January next.

Applications with names of two referees to undersigned forthwith. November finalists may apply.

J. M. DAY,
Town Clerk.

Town Hall,
West Bromwich.

COUNTY BOROUGH OF BURY

ASSISTANT SOLICITOR

Applications invited for the above appointment, within Grade A.P.T. IV (£1,140–£1,310) or A.P.T. V (£1,310–£1,480), according to qualifications, ability and experience. Local Government experience desirable but not essential. Housing accommodation will be considered in suitable cases.

Applications, together with the names of two referees, must reach me by 14th November, 1960.

EDWARD S. SMITH,
Town Clerk.

Town Hall,
Bury.
25th October, 1960.

APPOINTMENTS VACANT

ASSISTANT Solicitor required immediately for City Solicitors; should be aged about 30, experience in conveyancing, probate and trust matters essential; able to handle a good volume of work with the minimum of supervision: Salary dependant upon age and experience, minimum £1,200.—Write Box E.839, c/o Streets, 110 Old Broad Street, E.C.2.

YOUNG Solicitor as personal assistant to partner. Lincoln's Inn firm, mainly engaged important conveyancing. Good salary for right man; ultimate partnership possibilities.—Box 7130, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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★ Classified Advertisements ★

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APPOINTMENTS VACANT—*continued*

CONVEYANCING Clerk required by established West End firm. Excellent prospects for keen, self reliant and knowledgeable man or woman seeking advancement. No Saturdays. Salary according to services offered. Write in confidence with details.—Box 6770, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WEST END firm requires assistant in Probate Department. Excellent opportunity for advancement. Salary commensurate with services offered. Write with details.—Box 7018, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

A LITIGATION Clerk (County Court) required for Legal Department of a leading Finance House. Salary by arrangement. Superannuated.—Apply in writing giving concise details of experience to: Tricity Finance Corporation Limited, Great Cambridge Road, Enfield, Middlesex, quoting Personnel 13/218.

EXPERIENCED Solicitor or unadmitted Managing Clerk required capable of conducting conveyancing unsupervised and some knowledge litigation and Probate. Minimum salary £1,000 p.a., but higher for experience and qualifications.—Box 7126, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EXPERIENCED Conveyancing Manager (Unadmitted) required by Plymouth Solicitors. Supplementary Pension Scheme including life cover and widow's pension. Help given with housing. Salary according to experience.—Box 7127, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PLYMOUTH Solicitors required Admitted Assistant (man or woman) who would welcome the experienced gained by working under pressure in large office. Limited amount of advocacy optional. A newly-admitted solicitor would be considered if able to undertake conveyancing without supervision.—Apply Box 7128, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASSISTANT Litigation Manager required by West End firm. Man over 40 not objected to. Write stating age, experience and salary required.—Box 7129, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

LONDON Insurance Company requires Assistant Solicitor under 35 years for its Legal Department. Good salary and excellent prospects. Work is varied but mainly conveyancing and company matters. Pension Scheme and house purchase facilities.—Box 7135, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

LEICESTER.—Solicitor required to work under conveyancing partner; must be experienced and capable of working with slight supervision; good salary according to experience and ability.—Box 7136, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

COUNTRY Solicitors South of Manchester require Assistant Solicitor to set up and take complete control of a litigation department. A newly admitted man would be suitable. Excellent starting salary and prospects of a partnership without capital being needed after satisfactory two year period.—Box 7117, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

OLD-ESTABLISHED Watford firm require Assistant Solicitor for busy conveyancing and probate practice. Newly admitted man would be considered. Salary in accordance with experience.—Box 7137, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

QUALIFIED Solicitor required for old-established firm. Age preferably over 30. Experience in conveyancing essential also a good knowledge of Commission Law. Progressive opportunity.—Further details from Box 7138, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WILTSHIRE Solicitors require Managing Clerk. Salary up to £950 per annum according to experience.—Box 7139, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

OLD-ESTABLISHED Tunbridge Wells solicitors require Managing Clerk experienced principally in conveyancing and/or probate. Salary by arrangement. Write stating age and experience.—Box 7140, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EXPERIENCED Litigation Clerk required. 5-day week. Pension scheme. Small newly decorated unfurnished flat available.—Write giving full particulars. L. O. Glenister & Sons, 20/22 King Street, Hammersmith, London, W.6.

SOLICITORS in South London require experienced clerk, aged 25/35, as assistant to litigation Manager; knowledge of Divorce and County Court work, Accident Claims, etc., and able to interview Clients. Good salary paid according to age and experience. Three weeks holiday.—Box 7046, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SIDCUP, Kent (close by station), Conveyancing assistant required; typing essential. Salary £624 per annum.—Ring Forest Hill 0551.

CONVEYANCING Managing Clerk required, admitted or unadmitted, by City Solicitors shortly moving to High Holborn. Salary not less than £1,250 and more according to qualifications. Prospects. — Reply to Box 7090, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOUTH Midland Solicitors require able assistant, admitted or unadmitted. Good salary and prospects of partnership for admitted man.—Box 7093, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MANAGING Clerk required for Hornchurch Solicitors. Must have sound knowledge of litigation and some experience of conveyancing. Excellent opportunity for conscientious worker.—Box 7094, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CARDIFF.—Young Solicitor interested in litigation and advocacy required by large firm. Suitable for 12 months qualified man with ambition. Commencing salary up to £1,250 per annum according to experience.—Box 7102, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

YOUNG Solicitor required by old-established Bedfordshire firm who are opening new branch. Opportunity for energetic and active young man who wishes good salary with percentage and future prospects.—Box 7121, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITORS in City require experienced Clerk (admitted or unadmitted) for litigation department. Must be capable of conducting heavy litigation. Salary commensurate.—Full details to Box 7108, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4, or telephone MONarch 8991.

SUSSEX firm require capable and energetic Solicitor to assist in general practice, mainly conveyancing. Excellent ultimate prospects. Salary up to £1,000 according to experience and ability. Write full particulars.—Box 7114, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

BUSY South East London Firm require Assistant Solicitor or unadmitted Managing Clerk for Conveyancing and Probate work. Salary according to ability and experience.—Write stating age, experience and salary required to Box 7113, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOUTHEND-ON-SEA.—Assistant Solicitor required for expanding practice mainly conveyancing and probate. Opportunity for energetic young man. Prospects of partnership, salary by arrangment.—write stating age and experience to Box 7116, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING Chief Clerk; age 24–45; wide knowledge desirable including some knowledge of Trusts and Probate; Salary rising to figure in excess of £1,250 according to age and experience; assistance with moving and housing expenses. Pension and Insurance Fund. First class working conditions with central heating and latest equipment. South West Midlands Region. Please write age, experience and some indication of commencing salary required.—Box 7115, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CARDIFF.—Unadmitted Clerk required by large Firm with experience of Conveyancing and Probate. Commencing salary up to £1,250 per annum according to experience.—Box 7103, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MID-SUSSEX Solicitor requires Probate and Conveyancing Clerk to work under slight supervision. Write with full particulars and salary required. Assistance with accommodation if required.—Box 7122, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

APPOINTMENTS WANTED

SOLICITOR (over 40, single), admitted 1938, all main branches, Common Law and Litigation strongest, reasonable Advocate with own car; political and scholastic aspirations (also qualified schoolmaster), sound, conscientious worker, but no longer able to satisfy slave-driving principals because of *anno domini*. Available now.—Box 7125, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SATURDAY SLAVE? Energetic litigation manager who can run office and take conveyancing instructions will do the bulk of litigation for a newly started practice, leaving the principal free to concentrate on conveyancing. Will work Saturdays and, if necessary, evenings. Say £260 p.a. for profit costs up to £1,500 p.a.?—Box 7131, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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APPOINTMENTS WANTED—*continued*

CONVEYANCING Clerk (31). Part I, Final LL.B. 1960, 15 years legal experience. Minimum salary £1,100 with transfer of present articles. West Country preferred.—Box 7141, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PREMISES, OFFICES, ETC.

SOLICITOR has spare accommodation in the Holborn area. Would suit young solicitor seeking office sharing arrangement with view to mutual saving of expenses and possible amalgamation or partnership.—Box 7143, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PROPERTY INVESTMENTS

FREEHOLD Property.—New building let for 21 years at £5,000 p.a. to first class multiple in main thoroughfare in Lewisham. Approximate amount required £60,000. Terms to be negotiated.—Box 7132, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

INVESTMENTS REQUIRED

ACTIVE enquiries in hand for good-class shop investments, blocks of flats, freehold ground rents and weekly investments of all types.—Details in confidence to Cowdrey, Phipps & Hollis, F.A.L.P.A., Investment Department, 140 Park Lane, Marble Arch, W.1. MAYfair 1329 (2 lines).

MORTGAGE FUNDS

2ND MORTGAGES our speciality. Cranbrook Mortgage Bureau, 49 Cranbrook Road, Ilford, Essex.

WE offer a specialised service re mortgage advances on Shop Properties, Factories and Houses over £10,000. Sums also available for Building and Industrial development.—MILLER SMITH AND PARTNERS, 139 Park Lane, W.1. Tel.: MAYfair 7081–4.

FUNDS required for first mortgages monthly repayments for seven years and over. Advances two thirds of valuation. Box 7078, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MORTGAGE FUNDS REQUIRED

MORTGAGES required for our applicants. Sums of £1,000/£10,000 on owner-occupied houses. Also larger amounts on investment property, viz.: blocks of shops, houses, factories, etc. Two-thirds value required at 6½%/7½%. Full scale legal and survey charges paid. Occasionally other applicants require second mortgages at 8%/10% £200/£1,000 where there is ample equity. Write fully.—Welsford, Morgan & Co. (Mortgage Brokers since 1908), 986 London Road, Thornton Heath, Surrey, or Tel.: THO 2135

MORTGAGE of £3,000 required for industrial premises in Manchester, valued by accredited auctioneers at £7,150.—Box 7133, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ADVERTISER requires standing mortgage of £18,000 (about two-thirds valuation) on newly built investment comprising block eight flats and garages, St. John's Wood, London. Substantial references and procuration fee offered.—Please rely to Box 7134, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

TRUSTEE FUNDS

£50,000, 25-year re-building Mortgage required.—Maison Riche 73/75/77 High Road, Ilford, Essex. Telephone Ilford 1383.

£5,000 on Freehold Ground Rent of £400 p.a 60-year lease on security of block of shops and flats, Central London.—Box 7144, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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REVERSIONS, LIFE POLICIES, ANNUITIES and UNQUOTED SHARES.—H. E. Foster and Cranfield, 6 Poultry, E.C.2, specialise in the valuation of these interests for probate purposes. Established 1843.

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A BARGAIN, £25 complete, brand new ready-made Co. Regns. Guaranteed no trading (England or Scotland); all trades available now, including Property Dealing; Mining/Quarrying; Garages; Electrical; Glass/China; Drapers; Packers; Plastics; H.P. Finance; Salvage; Banking, Nominees; Secretarial; Stocks/Shares; Property; Investments; Caravans, etc. (specially prepared for each trade). Write, phone or call (English Registrations) BUSINESS ECONOMY Co., Regns., Ltd. (Dept. 14), 156 Strand, London, W.C.2 (Tem. 8377/2294); (Scottish Registrations to 19 Walker Street, Edinburgh, 3, (Cal. 1167/9). Read "Advantages of trading as a limited Company" (3/- post free). Ltd. Co. may save you personal tax. We also have seven days Co. Regn. service with your own choice of name £21 (plus stamp duty).

LIMITED COMPANY REGISTRATIONS. Ready-made companies, guaranteed no trading, **£18** complete. Also seven-day own name registration service. Memo., Articles, Registers, minute book, shares and seal **£9**. Trade Mark and Company Searches.—Graeme & Co., 61 Fairview Avenue, Gillingham, Kent. Rainham (Kent) 82558.

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PERSONAL

DAVIS OF PORT STREET, PICCADILLY, MANCHESTER, 1.—For fine furniture at manufacturers prices. Walk round our three large showrooms, which are open daily until 6 p.m. (Wednesday and Saturday included). We are stockists of all the latest designs of furniture, carpets, mattresses, divans. 10-year guarantee. Also all domestic electrical equipment, etc. Special discount and terms to members of the legal profession. No other introduction required. Tel.: CEN. 0638.

BOOK-KEEPING and accounting services for solicitors. The answer to your staff problems is our quick, efficient and comprehensive service.—Write to Box 7142, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

GARRARD & CO. LTD., Crown Jewellers, offer the highest prices for jewellery, silver and gold articles you no longer require. Offers, without obligation, will be sent by return for consignments received at 112 Regent Street, London, W.1. For larger quantities of silver, our buyers will visit you upon request.

BUILDING LAND WANTED

LAND WANTED for housing. Home Counties. 2/50 acres. Agents retained and reinstructed. Planning applications and appeals undertaken.—TRUE BOND HOMES, LTD., 342 Richmond Road, East Twickenham. (POP 6231).

TRANSLATIONS

LEGAL DOCUMENTS and other miscellaneous matter (French, German and Italian); accurate rendering mailed day work received.

H. Verney Clayton, M.C.,
THE Woodlands, Market Rasen, Lincs.

THE HAMILTON TRANSLATION SERVICE, LTD.
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We specialise in the translation of all legal documents and correspondence from and into 48 Languages.

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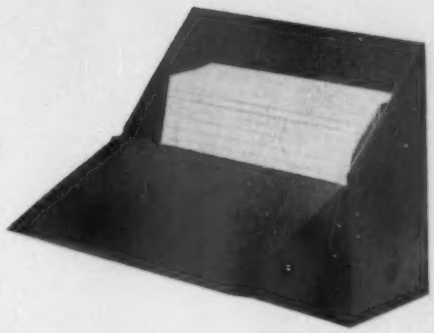

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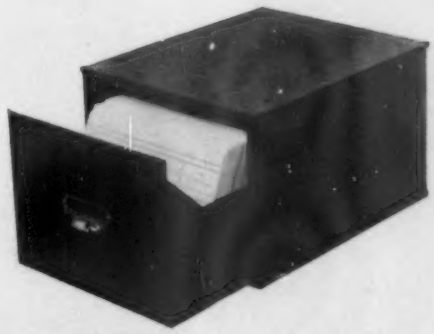

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